

HEALTH AND HUMAN RIGHTS RESOURCE GUIDE



FXBCENTER
FOR HEALTH & HUMAN RIGHTS

HARVARD SCHOOL OF PUBLIC HEALTH | HARVARD UNIVERSITY

HEALTH AND HUMAN RIGHTS RESOURCE GUIDE

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Health and Human Rights Resource Guide

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Fifth Edition, November 2013

Cover photograph courtesy of Sven Torfinn - Panos for the Open Society Foundations, "A paralegal nurse named Mercy and a lawyer named Johnson, both with Nyeri Hospice in Nyeri, Kenya talk with Elizabeth (center) about her health and property. She has cancer and is cared for by her granddaughter Caroline (to her left). She wants to ensure her granddaughters can inherit her property even though other relatives are trying to claim it."

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CHAPTER 7



MINORITY HEALTH AND HUMAN RIGHTS

“Ending discrimination against minorities requires us to protect and embrace diversity through the promotion and implementation of human rights standards.”

— *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, OHCHR Booklet Introduction*

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Cover photograph courtesy Bjorn Steinz – Panos, Open Society Foundations, “Romina talks with Ljutvia, a mother of eight during European Immunization Week in Vinica, Macedonia”

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INTRODUCTION

This chapter will introduce you to key health and human rights issues facing minority populations.

The chapter is organized into eight sections that answer the following questions:

1. How is minority health a human rights issue?
2. What are the most relevant international and regional human rights standards related to minority health?
3. What is a human rights-based approach to advocacy, litigation, and programming?
4. What are some examples of effective human rights-based work in the area of minority health?
5. What steps can government and key stakeholders take to improve the health status of minority populations?
6. Where can I find additional resources on minority communities, health and human rights?
7. Where can I find additional resources on indigenous communities, health and human rights?
8. What are key terms related to minority health and human rights?

I. HOW IS MINORITY HEALTH A HUMAN RIGHTS ISSUE?

What do we mean by marginalized minority populations?

In this chapter, minority is used as an umbrella term to refer to marginalized ethnic, racial, cultural, and linguistic minorities as well as indigenous people. There is no internationally agreed-upon definition as to which groups constitute minorities or indigenous populations. This chapter will use these terms broadly, focusing on the marginalization of minorities and the effect of marginalization upon their health and human rights.

In 1979, the former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Francesco Capotorti, provided one of the most widely accepted definitions of minorities:

*A group numerically inferior to the rest of the population of a state, in a non-dominant position, where members—being national of the state—possess ethnic, religious, linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, tradition, religion or language.*¹

The UN Minorities Declaration, adopted by the General Assembly in 1992, contains a more general definition of minorities, stating that minorities are persons belonging to national or ethnic, cultural, religious, and linguistic minorities.² The Office of the High Commissioner of Human Rights (OHCHR) stated that “[t]he difficulty in arriving at an acceptable definition lies in the variety of situations in which minorities exist.”³ The OHCHR further states:

*It is often stressed that the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (including that individuals must identify themselves as members of a minority).*⁴

There has also been extensive discussion relating to indigenous peoples, but the United Nations has yet to adopt any definition.

What are the issues and how are they human rights issues?

Minorities are among the most marginalized groups in society and experience higher rates of mortality, limited access to health services, and poorer health outcomes. Marginalization, social exclusion, and stigma, as well as other social and economic determinants like unemployment and poor material circumstances, affect access to health services and health status. A human rights-based approach that addresses social and economic determinants of health, including discrimination, is required to address the persistent inequalities of minority populations in health status and access to health.

¹ Capotorti F, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, U.N. Doc E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979): 96.

² UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, U.N. Doc. A/RES/47/135 (Dec 18, 1992). www.un.org/documents/ga/res/47/a47r135.htm.

³ UN Office of the High Commissioner for Human Rights (OHCHR), *Minority Rights*, Fact Sheet No.18 (Rev.1), www.ohchr.org/Documents/Publications/FactSheet18rev.1en.pdf.

⁴ OHCHR, *Minority Rights: International Standards and Guidance for Implementation* (2010). www.ohchr.org/Documents/Publications/MinorityRights_en.pdf.

Minority populations are also more vulnerable to pandemic diseases such as HIV/AIDS and tuberculosis.⁵ For more information on HIV/AIDS and minorities please see Chapter 2 on HIV, AIDS, and human rights. For more information on tuberculosis and minorities, please see Chapter 3 on Tuberculosis and human rights.

Right to non-discrimination and equality before the law

Discrimination against minority populations remains a central problem and affects the enjoyment of all rights, including health. International human rights law prohibits discrimination on the basis of race, color, language, national or social origin, or other status. The International Convention on the Elimination of all forms of Racial Discrimination (ICERD) defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin” that impairs the enjoyment of human rights and fundamental freedoms. Likewise, prohibition against discrimination on the basis of race, color, language, national or social origin, or other status is listed in the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC). These human rights instruments require state parties to take all appropriate means to eliminate discrimination and to ensure that all public authorities and institutions conform with this obligation.

Right to health

The right to health is expressly recognized in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which notes “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁶ Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also states:

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of... [inter alia, t]he right to public health, medical care, social security and social services.⁷

However, minority and indigenous populations face disproportionate barriers to realizing the right to health. They often face limited access to health services and experience increased illness and greater mortality relative to majority populations in the same region and socioeconomic class. Likewise, indigenous peoples are often marginalized and “are poorer, less educated, die at a younger age, are much more likely to commit suicide, and are generally in worse health than the rest of the population.”⁸ For example, according to the World Health Organization (WHO):

In some regions of Australia, the Aboriginal and Torres Strait Islanders have a diabetes prevalence rate as high as 26%, which is six-times higher than in the general population. Among Inuit youth in Canada, suicide rates are among the highest in the world, at eleven-times the national average. For ethnic minorities in Viet Nam, more than 60% of childbirths take place without prenatal care compared to 30% for the Kinh population, Viet Nam’s ethnic majority.⁹

5 UN Office of the High Commissioner for Human Rights, *Towards Developing Country Engagement Strategies on Minorities: An Information Note for OHCHR Staff and Other Practitioners*. www.ohchr.org/Documents/Publications/Strategies_on_minoritiesEN.pdf.

6 International Covenant on Economic, Social and Cultural Rights (ICESCR). <http://www2.ohchr.org/english/law/cescr.htm>.

7 International Convention on the Elimination of all forms of Racial Discrimination (ICERD). <http://www2.ohchr.org/english/law/cerd.htm>.

8 World Health Organization (WHO), *Health of indigenous peoples* (Oct. 2007). www.who.int/mediacentre/factsheets/fs326/en/index.html.

9 Ibid.

Studies have shown that minority and indigenous populations have lower access to health services, health information, and adequate housing and safe drinking water than the general population. Children, in particular, have a higher mortality rate and are more likely to suffer from severe malnutrition.¹⁰

Health care facilities, goods, and services

The Committee on Economic, Social and Cultural Rights (CESCR) has expressly addressed minority populations in General Comment 14 on the right to health:

*States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including . . . minorities . . . to preventive, curative and palliative health services; [and] abstaining from enforcing discriminatory practices as a State policy.*¹¹

The CESCR states that governments have a legal obligation to eliminate and abstain from all discriminatory practices in health care delivery to minorities. Similarly, the UN Special Rapporteur on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health) also writes that states have a legal obligation “to ensure that a health system is accessible to all without discrimination, including ... minorities [and] indigenous peoples.”¹² The human rights principles of discrimination and equality require that states take affirmative action, for example through outreach programs, to ensure that minorities have the same access to health care in practice as others.¹³

CESCR General Comment 14 explains that the right to health requires States to ensure that minorities have physical accessibility to health facilities:

*[H]ealth facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations . . .*¹⁴

This is particularly relevant for minority populations that are geographically isolated or are predominantly living in rural locations. Under this obligation, States are obligated to ensure that health facilities are provided in “safe physical reach.”

Under the right to health, facilities must be provided in a medically ethical and culturally appropriate manner. General Comment 14 explains that “culturally appropriate” includes “respectful of the culture of individuals, minorities, peoples and communities . . . as well as being designed to respect confidentiality and improve the health status of those concerned.”¹⁵

10 United Nations Office of the High Commissioner for Human Rights and the World Health Organization, *The Right to Health*, Fact Sheet No.31. www.ohchr.org/Documents/Publications/Factsheet31.pdf.

11 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14*, E/C.12/2000/4 (Aug. 11, 2000).

12 UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/HRC/7/11 (Jan. 31, 2008).

13 UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* (Paul Hunt), A/HRC/7/11 (Jan. 31, 2008).

14 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, E/C.12/2000/4, para. 12(b)(ii) (Aug. 11, 2000).

15 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, E/C.12/2000/4 (Aug. 11, 2000), para. 12(b)(ii).

Social and economic determinants of health

In General Comment 14, CESCR explains that the right to health is “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.”¹⁶ Moreover, the determinants of health must also be physically accessible, economically affordable, and available in sufficient quantity and provided in a non-discriminatory manner.¹⁷

The determinants of health, as described above, “are in turn shaped by a wider set of forces: economics, social policies, and politics.”¹⁸ Michael Marmot explains that “material deprivation is not simply a technical matter of providing clean water or better medical care. Who gets these resources is socially determined.”¹⁹ Minorities, as a marginalized population, are more vulnerable to the social and economic determinants of health and consequently experience poorer health outcomes. As Richard Wilkinson and Michael Marmot explain, “It’s not simply that poor material circumstances are harmful to health; the social meaning of being poor, unemployed, socially excluded, or otherwise stigmatized also matters.”²⁰

Rights of women

Minority women are particularly vulnerable to multiple forms of discrimination because they bear the double burden of both gender and minority stigma. CERD explains:

*Racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.*²¹

Minority women especially face barriers to education and full participation in the economic, cultural, political, and social life of their communities and in society.²² In many places, minority women receive fewer health and reproductive health services, less information and are more vulnerable to physical and sexual violence.²³

Reproductive and sexual health

Minority women face sexual and reproductive health rights violations from within their own communities, such as pressure to abstain from using contraception or to marry early, as well as from discriminatory policies aimed at women from particular minority groups, such as forced sterilization. For example, a study conducted by the Center for Reproductive Rights found that Romani women face widespread human rights violations, specifically reproductive rights violations. Violations include coerced or forced sterilization, misinformation in reproductive health matters, physical and verbal abuse by medical providers, racially

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ World Health Organization, *Social determinants of health: Key concepts*. www.who.int/social_determinants/thecommission/finalreport/key_concepts/en/index.html.

¹⁹ Marmot M, “Social determinants of health inequities,” *Lancet* 365 (2005) 1099–1104. www.who.int/social_determinants/strategy/Marmot-Social%20determinants%20of%20health%20inqualities.pdf.

²⁰ Wilkinson R and Marmot M, “Social determinants of health: the solid facts” (2003). www.euro.who.int/__data/assets/pdf_file/0005/98438/e81384.pdf.

²¹ UN Committee on the Elimination of Racial Discrimination (CERD), *General Recommendation No. 25: Gender related dimensions of racial discrimination* (Mar. 20, 2000).

²² UN Office of the High Commissioner for Human Rights, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions 2008-2011*. http://www2.ohchr.org/english/bodies/hrcouncil/minority/docs/Forum_On_Minority_Pub_en_low.pdf.

²³ United Nations Office of the High Commissioner for Human Rights and the World Health Organization, *The Right to Health*, Fact Sheet No.31. www.ohchr.org/Documents/Publications/Factsheet31.pdf.

discriminatory access to health care resources and treatment, and denial of access to medical records.²⁴

The European Court of Human Rights has heard cases on Roma women being sterilized without their full and informed consent. Usually, these procedures are conducted while the patient is in the hospital and undergoing another procedure. Below is an excerpt from a blog, explaining the process of surgical sterilization on Roma women:

Between 1971 and 1991 in Czechoslovakia, now Czech Republic and Slovakia, the “reduction of the Roma population” through surgical sterilization, performed without the knowledge of the women themselves, was a widespread governmental practice. The sterilization would be performed on Romani women without their knowledge during Caesarean sections or abortions. Some of the victims claim that they were made to sign documents without understanding their content. By signing these documents, they involuntarily authorized the hospital to sterilize them. In exchange, they sometimes were offered financial compensation or material benefits like furniture from Social Services – though it was not explicitly stated what this compensation was for. The justification for sterilization practices according to the stakeholders was “high, unhealthy” reproduction.²⁵

In two recent cases, the European Court of Human Rights held that the sterilization of Roma women without their full and informed consent violated the women’s right to privacy.²⁶

Minority women are especially vulnerable to systematic sexual violence, such as targeted rape. During armed conflicts, minority women can suffer from systematic sexual and other violence because of their ethnic, religious, tribal, or indigenous identity. Systematic violence against minority women during conflict was reported in conflicts, including Iraq, Afghanistan, Somalia, Sudan, Democratic Republic of Congo, Sri Lanka, Colombia, Guatemala, Kyrgyzstan, and Burma. Unfortunately, minority women often have limited or no access to justice and face discrimination from the police force and judicial system,²⁷ and are therefore unable to seek redress for these gross human rights violations.

Access to health care

Poverty, remote geographic location, language barriers, and inaccessibility of health care prevent minority women from accessing and using health and reproductive health services. In some cases, minority women may be refused health services, receive inferior care, or be abused by health workers due to discrimination against minorities.²⁸ As a result, minority women are vulnerable to health and reproductive issues. For example, the Karen ethnic minority group in Thailand has one of the highest maternal mortality rates in the country. The Special Rapporteur on the right to health writes that the “burden of maternal mortality falls disproportionately on women in developing countries [and that] in both developing and developed countries, the burden of maternal mortality falls disproportionately on ethnic minority women, indigenous women and women living in poverty.”²⁹

24 Center for Reproductive Rights, *Body and Soul: Forced Sterilization and other Assaults on Roma Reproductive Freedom in Slovakia* (2003). http://reproductiverights.org/sites/default/files/documents/bo_slov_part1.pdf.

25 Stoyanova G, *Forced sterilization of Romani women – a persisting human rights violation*, (Romedia Foundation, February 7, 2013). <http://romediafoundation.wordpress.com/2013/02/07/forced-sterilization-of-romani-women-a-persisting-human-rights-violation/>.

26 Case of V.C. v. Slovakia, 18968/07 (Nov. 8, 2011) and Case of N.B. v. Slovakia, 29518/10 (June 12, 2012).

27 Minority Rights Group International, *Minority women deliberately targeted for rape and other violence – new global report* (July 6, 2011). www.minorityrights.org/10851/press-releases/minority-women-deliberately-targeted-for-rape-and-other-violence-new-global-report.html.

28 Minority Rights Group International, *State of the World’s Minorities and Indigenous Peoples 2011* (2011). www.minorityrights.org/10848/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2011.html.

29 UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/HRC/4/28 (Human Rights Council, Jan 17., 2007).

Minority women are more likely to be living in poverty and are therefore less likely to have access to care, less likely to have routine care, and more likely to delay care. Poverty can also exacerbate reproductive health problems and can lead to poor nutrition and stress. “Poverty remains one of the most significant barriers to the full actualization of reproductive health, and the link between health, income and minority status is well established.”³⁰

Freedom from harmful cultural practices

Tension exists between rights of minorities and indigenous peoples to maintain their cultural identity and practice their culture, and the rights of women to be free from harmful cultural practices, such as female genital mutilation (FGM). Harmful practices such as FGM may be presented as integral cultural practices, but they may not be supported by everyone. Especially in patriarchal societies, it is highly unlikely women will challenge accepted cultural practices.³¹

Right to education

Education is one of the social determinants of health and lack of education can limit the enjoyment of the right to health and other economic and social rights. Generally, lower levels of education are associated with poorer health outcomes, including illness, malnutrition, and higher rates of infant mortality. Therefore, it is important to consider access to education and quality education as part of the broader picture of health.

Non-discrimination and equal access

Minority populations experience unequal or restricted access to education as well as inappropriate education strategies.³² Under international human rights law, governments have the obligation to ensure that “persons belonging to minorities have equal access to quality education leading to equal educational outcomes.”³³ To ensure equal access, governments should address all forms of discrimination against minorities. This includes, as CESCR explains, indirect discrimination which are laws or policies that may not be discriminatory at face value but have a disparate impact upon minorities.³⁴ For example, “requiring a birth registration certificate for school enrolment may discriminate against ethnic minorities or non-nationals who do not possess, or have been denied, such certificates.”³⁵

30 Bakhru TS, *Reproductive rights: a long way to go* (2011) from Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011* (2011). www.minorityrights.org/10848/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2011.html.

31 Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011* (2011). www.minorityrights.org/10848/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2011.html.

32 UN Office of the High Commissioner for Human Rights, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions 2008-2011*. http://www2.ohchr.org/english/bodies/hrcouncil/minority/docs/Forum_On_Minority_Pub_en_low.pdf.

33 UN Human Rights Council, *Recommendations of the Forum on Minority Issues at its third session, on minorities and effective participation in economic life (14 and 15 December 2010)*, U.N. Doc. A/HRC/16/46 (Jan 31, 2011). <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-46.pdf>.

34 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 20*, E/C.12/GC/20 (July 2, 2009).

35 *Ibid.* at para. 10 (b).

Many children from minority populations face discrimination both institutionally, such as being placed in a poorer quality school, or by teachers and students, such as by bullying. For example, the discriminatory education system in the Czech Republic barred Roma children from accessing quality education that would prepare them to be productive members of society. In the Czech Republic, Roma children were disproportionately placed in “practical” schools that provided sub-standard education rather than “standard” schools. In 2000, 19 Roma Czech nationals filed a case with the European Court for Human Rights claiming they were discriminated against on the basis of their race/ethnic origin in accessing education, and the Court found educational segregation discriminatory.³⁶ However, according to a February 2012 report from the Open Society Foundations, an estimated 20% of Roma children in the Czech Republic are still placed in “school designed for pupils with mild mental disabilities, compared to two percent of their non-Roma counterparts.”³⁷

Exclusion and inequality in education are especially felt by minority and indigenous girls. A 2011 UNICEF report concludes that “Attendance and completion of secondary school is still largely beyond the reach of the poorest and most marginalized groups and communities in many countries. Girls, adolescents with disabilities and those from minority groups are especially disadvantaged.”³⁸

For example, the MDG Report from Laos indicates that “compared with boys, girls from the Sino-Tibetan group [of minorities] are much less likely to be in school than those from the Lao-Tai group.” In China, girls from minority groups have experienced much lower rates of secondary school enrolment than Han girls, according to a 2010 article published by the World Bank.³⁹ Countries should pay special attention to the multiple forms of discrimination facing young minority girls.

Content and delivery of curriculum

International human rights law demands that education for minorities, including curriculum and teaching methods, should be provided in a culturally appropriate manner and of good quality equal to national standards.⁴⁰ “Culturally appropriate” refers to restrictions or limitations that would limit a minority’s access to education. For example, the Committee on the Rights of the Child (CRC Committee) explains, “Discriminatory practices, such as restrictions on the use of cultural and traditional dress, should be avoided in the school setting.”⁴¹ Likewise, The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), passed by the United Nations General Assembly, provides that “States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.”⁴²

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- 36 D.H. and Others v. The Czech Republic, 57325/00 (Nov. 13, 2007). See also, Orsus and Others v. Croatia, 15766/03 (Mar. 16, 2010) (15 Roma children living in Orehovica, Podturen and Trnovec and born between 1988 and 1994, were required to attend segregated classes with only Roma pupils. The Court found that “the placement of the applicants in Roma-only classes at times during their primary education had no objective and reasonable justification” and therefore there was a violation article 14 prohibiting discrimination.).
- 37 Open Society Foundations, *Failing Another Generation: The Travesty of Roma Education in Czech Republic* (2012). www.opensocietyfoundations.org/sites/default/files/failing-another-generation-20120601_o.pdf. See also, Thomasen K, *A Hard Look at Discrimination in Education in Germany*, (Open Society Foundations, Oct. 17, 2012). www.opensocietyfoundations.org/voices/hard-look-discrimination-education-germany.
- 38 UNICEF, *State of the World's Children 2011: Adolescence: An Age of Opportunity* (2011). www.unicef.org/publications/files/SOWC_2011_Main_Report_EN_02242011.pdf, pg. 67.
- 39 Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011* (2011). www.minorityrights.org/10848/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2011.html.
- 40 UN Committee on Economic Social and Cultural Rights, *General Comment No. 13*, E/C.12/1999/10 (Dec. 8, 1999).
- 41 Committee on the Rights of the Child (CRC), *General Comment No. 11*, U.N. Doc. CRC/C/GC/11 (Feb. 12, 2009).
- 42 UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, U.N. Doc. A/RES/47/135 art. 4(2) (Dec 18, 1992). www.un.org/documents/ga/res/47/a47r135.htm.

Educational instruction should be provided in minority languages whenever possible. The Declaration on Minorities explains that “States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.”⁴³ Many minorities speak two or more languages, which is important for their full participation in society. However, bilingualism can create difficulties and disadvantages in education—for example, if they are required to study in a language that is not their mother tongue.⁴⁴ The CESCR explains, “Discrimination on the basis of language or regional accent is often closely linked to unequal treatment on the basis of national or ethnic origin” and that it can hinder the enjoyment of many rights.⁴⁵ It also explains that “States parties should ensure that any language requirements relating to employment and education are based on reasonable and objective criteria.”⁴⁶

Curricula that reflect minority cultures and history should also be provided.⁴⁷ The Declaration on Minorities explains that “States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.”⁴⁸ The CRC elaborates on this obligation for indigenous peoples: “In order to effectively implement this obligation, States parties should ensure that the curricula, educational materials and history textbooks provide a fair, accurate and informative portrayal of the societies and cultures of indigenous peoples.”⁴⁹

Right to political participation

The CESCR identified political participation as an important aspect of the right to health in General Comment 14. CESCR writes that an “important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.”⁵⁰ CESCR further explains:

*The formulation and implementation of national health strategies and plans of action should respect, inter alia, the principles of non-discrimination and people’s participation. In particular, the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, programme or strategy developed to discharge governmental obligations under article 12. Promoting health must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health. Effective provision of health services can only be assured if people’s participation is secured by States.*⁵¹

International human rights law considers political and community participation as an important element of the right to health. Alicia Yamin writes that: “Realization of the right to health further implies providing

43 Ibid.

44 Izsák R, *Report of the independent expert on minority issues* U.N. Doc. A/HRC/19/56, (United Nations Human Rights Council, Jan. 3, 2012).

45 UN Committee on Economic Social and Cultural Rights, *General Comment No. 20*, U.N. Doc. E/C.12/GC/20 (July 2, 2009).

46 Ibid.

47 UN Office of the High Commissioner for Human Rights, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions 2008-2011*. http://www2.ohchr.org/english/bodies/hrcouncil/minority/docs/Forum_On_Minority_Pub_en_low.pdf.

48 UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, U.N. Doc. A/RES/47/135 (Dec 18, 1992). www.un.org/documents/ga/res/47/a47r135.htm, art. 4(4).

49 UN Committee on the Rights of the Child, *General Comment No. 11*, U.N. Doc. CRC/C/GC/11 (Feb. 12, 2009).

50 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000), para. 11. See also para. 17: “A further important aspect is the improvement and furtherance of participation of the population in the provision of preventive and curative health services, such as the organization of the health sector, the insurance system and, in particular, participation in political decisions relating to the right to health taken at both the community and national levels”; and para. 34 “States should refrain from ... preventing people’s participation in health-related matters.”

51 Ibid. at para. 54.

individuals and communities with an authentic voice in decisions defining, determining, and affecting their well-being.”⁵² Therefore, minority under-representation in public decision-making is an important element in understanding the structural determinants of minority health.

International human rights law explains that everyone has political rights, including the right to take part in government. The International Convention on the Elimination of Racial Discrimination (ICERD) explains that everyone, without distinction as to race, color, or national or ethnic origin, has political rights, including the right to vote in elections and to stand or elections, to take part in government, and to have equal access to public service.⁵³ However, minority populations are “almost always under-represented in national parliaments, in local governments, and in other areas of public life.”⁵⁴ Minorities face discrimination from effective [political] participation, which manifests itself in a range of ways including dissemination of information, civic advocacy and activism, and direct involvement in electoral politics.⁵⁵

For example, in some countries, minorities are prevented from exercising their right to participate fully and effectively in public life in through electoral provisions. In Bosnia and Herzegovina, the country’s electoral provisions infringed upon the rights of minorities by preventing them from being candidates for the presidency and the House of the People solely on the ground of their race/ethnicity or religion. Two members of minorities, one Roma and one Jewish, against whom these provisions discriminated, brought the case to the European Court of Human Rights, which found that certain provisions of the Bosnian Constitution and election laws discriminated against minorities.⁵⁶

The right to effective participation can be ensured through different means beyond equality in the electoral process, including “consultative mechanisms to special parliamentary arrangements and, where appropriate, may even include forms of territorial or personal autonomy.”⁵⁷ Alicia Yamin writes about the link between health and the construction of a functional democracy: “health-related resource distribution, evidence of discrimination and disparities, and the like are analyzed not just in terms of their impact on health status but also their relation to laws, policies, and practices that limit popular participation in decision-making and, in turn, the establishment of a genuinely democratic society.”⁵⁸

Rights of stateless and mobile populations

Lack of birth registration and identity documents presents a serious barrier for many minorities in accessing public services, including health care. For children born into minority or indigenous families living in remote areas, the risk of not being registered is even higher.⁵⁹ There are an estimated 15 million stateless persons in the world, and most belong to ethnic, religious, or linguistic minorities.⁶⁰ For example, in late 2001, more than half of all Roma in Serbia did not have a birth certificate or any document proving their citizenship. Almost one-third did not possess a health card.⁶¹ The denial of birth registration or identity

52 Yamin AE, “The right to Health Under International Law and Its Relevance to the United States”. *American Journal of Public Health* 95 (July 2005): 7.

53 International Covenant on Economic, Social and Cultural Rights, art. 5(c). <http://www2.ohchr.org/english/law/cescr.htm>.

54 UN Office of the High Commissioner for Human Rights, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions 2008-2011*. http://www2.ohchr.org/english/bodies/hrcouncil/minority/docs/Forum_On_Minority_Pub_en_low.pdf.

55 Ibid.

56 Claridge L, *Discrimination and Political Participation in Bosnia and Herzegovina: Sejdic and Finci V. Bosnia and Herzegovina* (Minority Rights Group International, Mar. 12, 2010). www.minorityrights.org/9773/briefing-papers/discrimination-and-political-participation-in-bosnia-and-herzegovina.html.

57 UN Office for the High Commissioner for Human Rights, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions 2008-2011*. http://www2.ohchr.org/english/bodies/hrcouncil/minority/docs/Forum_On_Minority_Pub_en_low.pdf.

58 Yamin AE, “The right to Health Under International Law and Its Relevance to the United States” *American Journal of Public Health* 95 (July 2005): 7.

59 World Health Organization, *Health of indigenous peoples* (Oct. 2007). www.who.int/mediacentre/factsheets/fs326/en/index.html.

60 UN Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation* (2010). www.ohchr.org/Documents/Publications/MinorityRights_en.pdf.

61 Cameron L, ‘The Right to an Identity’. *Roma Rights Quarterly*. (European Roma Rights Centre, 2007). www.errc.org/cikk.php?cikk=1066.

cards to minority groups is discriminatory and is contrary to international law.⁶² While access to health care is only one factor shaping overall health, it is also critical to increasing social inclusion of minorities and ensuring equal opportunities for all.

Rights of indigenous populations

Indigenous populations are unique with respect to their history, culture, ecology, geography, and politics. “As such, Indigenous Peoples have distinct status and specific needs relative to others. Indigenous Peoples’ unique status must therefore be considered separately from generalized or more universal social exclusion discussions.”⁶³ This resource does not adequately address the unique concerns of indigenous peoples, but rather introduces human rights concepts used in the area of indigenous peoples and health. It is recommended that the reader take note of this and pursue additional resources on indigenous rights. Resources are provided in Section 7 near the end of this chapter.

Indigenous people are often discriminated against or experience disparities in accessing health services and health outcomes. They are more likely to “suffer from poorer health, are more likely to experience disability and reduced quality of life and ultimately die younger than their non-indigenous counterparts.”⁶⁴ This inequality in health status of indigenous peoples “goes to the heart of the relationship between health and power, social participation, and empowerment.”⁶⁵

In General Comment 14 on the right to health, CESCR dedicates a section to “identify elements that would help to define indigenous peoples’ right to health in order better to enable States with indigenous peoples to implement the provisions contained in Article 12 of the Covenant.”⁶⁶ CESCR explains that:

- Indigenous peoples have the right to specific measures to improve their access to health services and care.
- Health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines.
- States should provide resources for indigenous peoples to design, deliver and control [health] services so that they may enjoy the highest attainable standard of physical and mental health.
- The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected.

62 UN Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation* (2010). www.ohchr.org/Documents/Publications/MinorityRights_en.pdf.

63 World Health Organization: Commission on the Social Determinants of Health, *Closing the gap in a generation: Health equity through action on the social determinants of health* (2008): 36. http://whqlibdoc.who.int/publications/2008/9789241563703_eng.pdf.

64 U.N. Department of Economic and Social Affairs, *State of the World's Indigenous Peoples* (2009). www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf.

65 World Health Organization: Commission on the Social Determinants of Health, *Closing the gap in a generation: Health equity through action on the social determinants of health* (2008): 157. http://whqlibdoc.who.int/publications/2008/9789241563703_eng.pdf.

66 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, E/C.12/2000/4, para. 27 (Aug. 11, 2000),

2. WHICH ARE THE MOST RELEVANT INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS RELATED TO MINORITY HEALTH?

How to read the tables

Tables A and B provide an overview of relevant international and regional human rights instruments. They provide a quick reference to the rights instruments and refer you to the relevant articles of each listed human right or fundamental freedom that will be addressed in this chapter.

From Table 1 on, each table is dedicated to examining a human right or fundamental freedom in detail as it applies to minority health. The tables are organized as follows:

Human right or fundamental freedom	
Examples of Human Rights Violations	
Human rights standards	<p>UN treaty body interpretation</p> <p>This section provides general comments issued by UN treaty bodies as well as recommendations issued to States parties to the human right treaty. These provide guidance on how the treaty bodies expect countries to implement the human rights standards listed on the left.</p>
Human rights standards	<p>Case law</p> <p>This section lists case law from regional human rights courts only. There may be examples of case law at the country level, but these have not been included. Case law creates legal precedent that is binding upon the states under that court’s jurisdiction. Therefore it is important to know how the courts have interpreted the human rights standards as applied to a specific issue area.</p>
<p>Other interpretations: This section references other relevant interpretations of the issue. It includes interpretations by:</p> <ul style="list-style-type: none"> • UN Special Rapporteurs • UN working groups • International and regional organizations • International and regional declarations 	

The tables provide examples of human rights violations as well as legal standards and precedents that can be used to redress those violations. These tools can assist in framing common health or legal issues as human rights issues, and in approaching them with new intervention strategies. In determining whether any human rights standards or interpretations can be applied to your current work, consider what violations occur in your country and whether any policies or current practices in your country contradict human rights standards or interpretations.

Human rights law is an evolving field, and existing legal standards and precedents do not directly address many human rights violations. Through ongoing documentation and advocacy, advocates can build a stronger body of jurisprudence on human rights and minority health.

Abbreviations

In the tables, we use the following abbreviations to refer to the fourteen treaties and their corresponding enforcement mechanisms:

Treaty	Enforcement Mechanism
Universal Declaration of Human Rights (UDHR)	None
International Covenant on Civil and Political Rights (ICCPR)	Human Rights Committee (HRC)
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)
Convention on the Rights of the Child (CRC)	Committee on the Rights of the Child (CRC Committee)
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women (CEDAW Committee)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Committee on the Elimination of Racial Discrimination (CERD)
African Charter on Human and Peoples' Rights and Protocols (ACHPR)	African Commission on Human and Peoples' Rights (ACHPR Commission)
African Charter on the Rights and Welfare of the Child (ACRWC)	African Committee of Experts on the Rights and Welfare of the Child (ACRWC Committee)
[European] Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	European Court of Human Rights (ECtHR)
1996 Revised European Social Charter (ESC)	European Committee of Social Rights (ECSR)
American Convention on Human Rights (ACHR)	Inter-American Court of Human Rights (IACHR)
American Declaration of the Rights and Duties of Man (ADRDM)	Inter-American Court of Human Rights (IACHR)
Framework Convention for the Protection of National Minorities (FCNM)	Committee of Ministers of the Council of Europe & Advisory Committee (AC)
Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Con)	International Labour Organization (ILO)

Also cited are the former Commission on Human Rights (**CHR**) and various UN Special Rapporteurs (**SR**) and Working Groups (**WG**) including the United Nation Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (**SR Indigenous**).

Table A: International Human Rights Instruments and Protected Rights and Fundamental Freedoms

	UDHR	ICCPR	ICESCR	CEDAW	ICERD	CRC
Non-discrimination and Equality	Art. 1, Art. 2	Art. 2(1), Art. 3	Art. 2(2), Art. 3	Art. 2, All	Art. 2, Art. 5, All	Art. 2
Health	Art. 25		Art. 12	Art. 12	Art. 5(e) (iv)	Art. 24
Expression & Information	Art. 19	Art. 19(2)			Art. 5(d) (viii)	Art. 12, Art. 13, Art. 17
Education	Art. 26		Art. 13	Art. 10	Art. 5(e) (v)	Art. 28, Art. 29
Participate in Public Policy	Art. 21	Art. 25		Art. 7	Art. 5(c)	
Bodily Integrity						

Table B: Regional Human Rights Instruments and Protected Rights and Fundamental Freedoms

	Africa: ACHPR	Europe: ECHR	Europe: ESC	Americas: ADRDM	Americas: ACHR
Non-discrimination and Equality	Art. 2, Art. 19	Art. 14	Art. E	Art. II	Art. 1(1)
Health	Art. 16		Art. 11, Art. 13	Art. XI	
Expression & Information	Art. 9	Art. 10		Art. IV	Art. 13
Education	Art. 17			Art. XII	
Participate in Public Policy	Art. 13			Art. XX	Art. 23
Bodily Integrity					

Table I: Minority Health and the Right to Non-Discrimination

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Housing policies force ethnic, minority communities into separate settlements that lack basic infrastructure and render inhabitants more vulnerable to illness and disease. • Ethnic minority members are more likely to be evicted from their homes and left to fend for themselves on the street. • Ethnic minority communities are expelled from their land and forced into settlements with inadequate facilities. • Hospitals place ethnic minority women in a separate maternity ward. • Denial of medical treatment, substandard care, or segregated care and treatment leading to severe pain and suffering for minorities.

Human Rights Standards	Treaty Body Interpretation
<p>ICCPR 2(1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p>	<p>HRC: Referring to ongoing discrimination faced by the Roma in almost all aspects of life covered by the ICCPR in Slovakia CCPR/C/SVK/CO/3 (HRC, 2011) and Hungary CCPR/CO/74/HUN (HRC, 2002), para. 7.</p>
<p>ICESCR 2(2): The States Parties to the present Covenant undertake to guarantee the rights enunciated in the present Covenant shall be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status.</p> <p>ICESCR 3: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.</p>	<p>CESCR: Recommending that Moldova “take urgent measures to ensure universal access to affordable primary health care, including by increasing the number of family doctors and community health centres, and include all members of society, including Roma, in the compulsory health insurance scheme. The committee also recommends that the state party take measures to ensure that emergency ambulance services are extended to Roma and older persons, without exception, and establish a special centre for the submission of complaints regarding the provision of such services.” E/C.12/MDA/CO/2 (CESCR, 2011)</p> <p>CESCR: Noting persistent discrimination against the Roma in Greece, Lithuania, and Serbia in the fields of housing, health, employment, and education. E/C.12/1/ADD.97 (CESCR, 2004), para. 11; E/C.12/1/ADD.96 (CESCR, 2004), para. 9; e/c.12/1/ADD.108 (CESCR, 2005) para. 13.</p> <p>CESCR: Noting that many Roma settlements in Serbia lack access to basic services such as electricity, running water, sewage facilities, medical care, and schools. E/C.12/1/ADD.108 (CESCR, 2005), para. 30.</p>

Table I(cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CRC 2(1): States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p>	<p>CRC Committee: Noting that children in Roma communities in Greece are exposed to substandard living conditions, including inadequate housing, poor sanitation and waste disposal, and no running water. CRC/C/15/ADD.170 (CRC, 2002), para. 64.</p> <p>CRC Committee: Recommending that Norway “make every effort to ensure that children from ethnic minority backgrounds and indigenous children have equal access to all children’s rights, including access to welfare, health services and schools ...” CRC/C/NOR/CO/4 (CRC, 2010)</p> <p>CRC Committee: Recommended that the Philippines “implement policies and programmes in order to ensure equal access for indigenous and minority children to culturally appropriate services, including social and health services and education.” CRC/C/PHL/CO/3-4 (CRC, 2009)</p>
<p>ICERD 2: States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.</p>	<p>CERD: Recommending improving the health conditions of the Roma population: Georgia CERD/C/GEO/CO/4-5 (CERD, 2011); Moldova CERD/C/MDA/CO/8-9 (CERD, 2011); Bosnia and Herzegovina CERD/C/BIH/CO/7-8 (CERD, 2010); Slovenia CERD/C/SVN/CO/6-7 (CERD, 2010); Slovakia CERD/C/SVK/CO/6-8 (CERD, 2010); etc.</p> <p>CERD: Recommending that the Czech Republic ensure that domestic legislation clearly prohibit racial discrimination in the enjoyment of the right to housing and protects the Roma from evictions. CERD/C/CZE/CO/7, March 2007.</p> <p>CERD: Linking the critical health situation of Roma communities in Lithuania to their poor living conditions and recommending that the state address issues of drinking water supplies and sewage disposal systems in Roma settlements. CERD/C/LTU/CO/3 (CERD, 2006), para. 22.</p> <p>CERD: Urging Albania “to fully implement all anti-discrimination policies that have been adopted with regard to the Roma minority in access to ... health. CERD/C/ALB/CO/5-8 (CERD, 2011).</p>
<p>CEDAW 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.</p>	<p>CEDAW Committee: Recommending that Canada “develop a specific and integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves, and of ethnic and minority women, including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, low income and high rates of violence.” CEDAW/C/CAN/CO/7 (CEDAW, 2008)</p> <p>CEDAW Committee: Recommending that Japan “take effective measures, including the establishment of a policy framework and the adoption of temporary special measures, to eliminate discrimination against minority women.” CEDAW/C/JPN/CO/6 (CEDAW, 2009)</p> <p>CEDAW Committee: Noting the multiple forms of discrimination faced by Roma women and girls in Romania, who remain marginalized with regard to their education, health, housing, employment, and participation in political and public life. CEDAW/C/ROM/CO/6 (CEDAW, 2006), para. 26.</p>

Table I(cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CEDAW 12(1): States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.</p> <p>CEDAW 12(2): Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.</p>	<p>CEDAW Committee: Explaining that “[s]tates parties are required by article 12 to take measures to ensure equal access to health care ... In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.” General Recommendation No. 19 (11th Session, 1992), para. 19 -20.</p>

Other Interpretations

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Art. 7. States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind.

Framework Convention for the Protection of National Minorities (Europe)

European Charter, Art. 21(1). Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited. **Art 22.** The Union shall respect cultural, religious and linguistic diversity.

Covenant on the Rights of the Child in Islam, as adopted by the Organization of the Islamic Conference (OIC), Art. 15. The child [regardless of minority status] is entitled to physical and psychological care.

Council of Europe: Convention on Biomedicine and Human Rights (Oviedo Convention) (1): Parties to this Convention shall protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine.

European Union Racial Equality Directive: Council Directive 2000/43/EC of June 29, 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Table 2: Minority Health and the Right to the Highest Attainable Standard of Health

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Doctors and health facilities are not located in or in close proximity to marginalized minority neighborhoods. • Ethnic minority patients are refused treatment, given inferior care, or abused in public health facilities. • Ethnic minority women lack access to maternal and reproductive health services. • Social policies disproportionately exclude ethnic minority individuals from access to health insurance. • Displaced from their lands, ethnic minority have been deprived of their traditional livelihood, and their health has suffered.

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p> <p>ICESCR 12(2): The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: . . . (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.</p>	<p>CESCR, General Comment 14: Explaining that “States have a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities, and to prevent any discrimination on internationally prohibited grounds.” (para. 19)</p> <p>CESCR, General Comment 14: Explaining that “[I]ndigenous peoples have the right to specific measures to improve their access to health services and care. . . . [D]evelopment-related activities that lead to the displacement of indigenous peoples against their will from traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.” (para. 27)</p> <p>CESRC: Recommending that Israel “ensure unrestricted access to health facilities, goods and services, including urgency treatment, for Palestinians living in the occupied Palestinian territory ... [and] to take disciplinary action against checkpoint officials who are found responsible for unattended roadside births, miscarriages, and maternal deaths resulting from delays at checkpoints, as well as maltreatment of Palestinian ambulance drivers.” Also recommending that “the state party should take urgent measures to ensure Palestinian women’s unrestricted access to adequate prenatal, natal and post-natal medical care [and] . . . to ensure the availability and accessibility of psychological trauma care for people living in Gaza, in particular children.” E/C.12/ISR/CO/3 (CESCR, 2011)</p> <p>CESCR: Calling for the Roma’s inclusion in Serbia’s health insurance scheme. E/C.12/1/Add.108, June 2005, para. 60.</p>

Table 2 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICERD 5: State Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . . (e) . . . [t]he right to public health, medical care, social security and social services.</p>	<p>CERD: Recommending that Colombia, in close consultation with the affected communities, devise a comprehensive strategy to guarantee that Afro-Colombians and indigenous peoples are provided with quality health care. Also explaining to Colombia that “CERD underlines the importance that targeted measures to improve the standard of living, including improved access to clean water and sewage systems, be linked to health indicators.” CERD/C/COL/CO/14 (CERD, 2009).</p> <p>CERD: Recommending that the United States “continue efforts to address the persistent health disparities affecting persons belonging to racial, ethnic and national minorities, in particular by eliminating the obstacles that currently prevent or limit their access to adequate health-care, such as lack of health insurance, unequal distribution of health-care resources, persistent racial discrimination in the provision of health care and poor quality of public health-care services.” CERD/C/USA/CO/6 (CERD, 2008).</p> <p>CERD: Recommending that the United States “pay particular attention to right to health and cultural rights of Western Shoshone people, which may be infringed upon by activities threatening their environment ...” CERD/C/USA/DEC/1 (CERD, 2006).</p> <p>CERD: Recommending that Estonia “continue to implement programmes and projects in field of health, with particular attention to minorities, bearing in mind their disadvantaged situation.” CERD/C/EST/CO/7 (CERD, 2006).</p> <p>CERD: Encouraging the implementation of programs to improve Roma health in Lithuania, bearing in mind their disadvantaged situation resulting from extreme poverty and low levels of education. CERD/C/LTU/CO/3, para. 22 (2006).</p> <p>CERD: Recommending that Guatemala, “in close consultation with the communities concerned, devise a comprehensive and culturally appropriate strategy to guarantee that indigenous peoples are provided with quality health care” and that “the implementation of such a strategy should be ensured by providing adequate resource allocations, in particular for the indigenous peoples and intercultural health unit, together with the active participation of departmental and municipal authorities, compilation of appropriate indicators and transparent progress monitoring “ and that “particular attention should be paid to improving access to health care for indigenous women and children.” CERD/C/GTM/CO/12-13 (CERD, 2010).</p> <p>CERD: Calling on Romania to guarantee access by Roma to health care and services, and also to social services, and continue to support Roma health mediators. CERD/C/ROU/CO/16-19 (CERD, 2010).</p> <p>CERD: Finding that, in the United States, wide racial disparities continue to exist in sexual and reproductive health, particularly with regard to the high maternal and infant mortality rates among women and children belonging to racial, ethnic and national minorities, especially African Americans; the high incidence of unintended pregnancies and greater abortion rates affecting African American women; and the growing disparities in HIV infection rates for minority women. CERD/C/USA/CO/6 (2008).</p> <p>CERD: Urging Norway to “take measures to address the discrimination [of non-citizens] including with regard to access to ... health, including the provision of specialized mental and physical health services for traumatized refugees and asylum-seekers.” CERD/C/NOR/CO/19-20 (CERD, 2011).</p> <p>CERD: Recommending that India “ensure equal access to ration shops, adequate health care facilities, reproductive health services, and safe drinking water for members of scheduled castes and scheduled and other tribes and to increase the number of doctors and of functioning and properly equipped primary health centres and health sub-centres in tribal and rural areas.” CERD/C/IND/CO/19 (CERD, 2007).</p>

Table 2 (cont.)

Human Rights Standards	Treaty Body Interpretation
	<p>CERD: recommending that Panama “ensure that sexual and reproductive health services are available for and accessible to the whole population, and in particular the Kuna community. CERD/C/PAN/CO/15-20 (CERD, 2010).</p> <p>CERD: Recommending that Chile take measures “to integrate the traditional medicine of indigenous peoples in the state party’s health-care system.” CERD/C/CHL/CO/15-18 (CERD, 2009).</p> <p>CERD: Recommending that Slovakia “act firmly against local measures denying residence to Roma and the unlawful expulsion of Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other basic facilities.” CERD/C/SVK/CO/6-8 (CERD, 2010).</p> <p>CERD: Recommending that Mozambique” strengthen its programmes aimed at providing universal access to health care, with particular attention to members of vulnerable groups, including non-citizens and persons without any identification documents, and encourages the state party to take further measures to prevent and combat HIV/AIDS, malaria and cholera.” A/62/18 (CERD, 2007).</p> <p>CERD: Recommending to Mexico that it “draw up, in close cooperation with the communities concerned, a comprehensive and culturally sensitive strategy to ensure that indigenous peoples receive quality health care. The implementation of the strategy should be guaranteed by an adequate allocation of resources, the collection of indicators and transparent monitoring of progress. Particular attention should be paid to improving access to health care for indigenous women and children. The committee underlines the need for interpreters in this area too, in order to ensure that indigenous people have full access to health services. It is important that the health system recognize, coordinate, support and strengthen indigenous health systems and use them as the basis for achieving more effective and culturally sensitive coverage. The committee requests the state party to provide clear data on maternal mortality and life expectancy in indigenous communities and among people of African descent. Lastly, the committee recommends that the state party step up its efforts to improve the sexual and reproductive health of indigenous women and women of African descent. CERD/C/MEX/CO/16-17 (CERD, 2012).</p>
<p>CEDAW 12(1): States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those related to family planning.</p>	<p>CEDAW Committee: Noting the Roma women’s marginalization and lack of access to health care and calling upon Macedonia to provide information on concrete projects to address these problems. CEDAW/C/MKD/CO/3, Feb 2006, para. 28.</p>
<p>CRC 24(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.</p>	<p>CRC Committee: Noting the limited access to health services for Roma children in Hungary. CRC/C/HUN/CO/2 (CRC, 2006), para. 41.</p>

Table 2 (cont.)

Human Rights Standards	Case Law
<p>ECHR 2: Right to life (which, of course, necessarily includes the human right to health).</p>	<p>ECtHR: “The Court reiterates that the first sentence of Article 2 § 1 enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction . . . the State’s positive obligation under Article 2 has also been found to be engaged in the health care sector, be it public or private, as regards the acts or omissions of health professionals” <i>Ilbeyi Kemaloglu and Meriye Kemaloglu v. Turkey</i>, 19986/06 (April 10, 2012), para. 32-34.</p>

Other Interpretations

SR Indigenous Peoples: Recommending that **South African** social services, health, and education departments give high priority attention to San needs and grievances. [E/CN.4/2006/78/Add.2 (SR Indigenous, 2005), para. 92].

SR Indigenous Peoples: Recommending that the **Democratic Republic of Congo** strengthen efforts to ensure that indigenous peoples have equal access to primary health care and that the basic health needs of indigenous communities are met, especially in remote areas. A/HRC/18/35/Add.5 (2011).

SR Indigenous Peoples: Recommending that **Colombia**, in collaboration with indigenous authorities and organizations, make a concerted effort to reduce the high levels of mortality and morbidity in their communities, in particular, health centres with medical staff should be established within indigenous territories, in order that care may be provided promptly – especially to the many communities in remote areas; urging the State to develop and implement a strategy for the prevention of death caused by malnutrition among children, pregnant women and the elderly in indigenous communities. A/HRC/15/37/ADD.3 (2010).

SR Racism: Recommending to **Brazil**, with regard to indigenous communities, that the “concerning system of provision of health care be revised in consultation with Indian communities, in light of inefficiency.” E/CN.4/2006/16/Add.3 (SR Racism, 2006).

Council of Europe: Convention on Biomedicine and Human Rights (Oviedo Convention) (3): Parties, taking into account health needs and available resources, shall take appropriate measures with a view to providing, within their jurisdiction, equitable access to health care of appropriate quality.

European Charter of Fundamental Rights (35): Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices.

European Race Equality Directive (1): The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment. (3)(1): Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to: (e) social protection, including social security and healthcare.

Table 3: Minority Health and the Right to Expression and Information

Examples of Human Rights Violations
<ul style="list-style-type: none"> • There are fewer health facilities in ethnic minority communities, and there is little attempt to provide them with basic health information. • Ethnic minority women lack access to information on sexual and reproductive health. • Data on minorities' health is inadequate, hindering the development of policies to address the needs of these communities.

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p>CESCR General Comment No. 14 (12): Health care accessibility “includes the right to seek, receive and impart information and ideas concerning health issues.”</p>
<p>CEDAW 10(h): Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.</p> <p>CEDAW 16(1)(e): The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.</p>	<p>CEDAW Committee: Noting the lack of information on Roma women and their access to health services in Hungary; recommending data collection disaggregated by sex and the implementation of health awareness campaigns. A/57/38(SUPP), Aug 2002, para. 332.</p> <p>CEDAW Committee: Urging the collection of statistical information on the health of Roma women and girls in Romania in order to develop policies responsive to their needs. CEDAW/C/ROM/CO/6 (CEDAW 2006) para. 27.</p>
<p>FCNM 9(1): The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language.</p>	<p>AC: Highlighting the need for data to assess Roma (and particularly Roma women’s) access to health services and education in Slovakia; data would have to be provided voluntarily, and Roma communities should be informed about the methods and purpose of data collection. ACFC/OP/II(2005)004, May 2005, para. 11.</p>

Table 4: Minority Health and the Right to Education

Examples of Human Rights Violations	
<ul style="list-style-type: none"> • Due to poor educational facilities in ethnic minority communities, illiteracy rates are high, and children are unable to access important health information. • Ethnic minority children are channelled into “special schools,” which provide an inferior education and limit their access to health information. 	
Human Rights Standards	Treaty Body Interpretation
<p>ICCPR 19(2): Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.</p>	<p>HRC: Noting the “grossly disproportionate” number of Roma children assigned to special schools and urging Slovakia to take immediate steps to eradicate this segregation. CCPR/CO/78/SVK (HRC, 2003), para. 18.</p>
<p>ICESCR 13(1): The State Parties . . . recognize the right of everyone to education. . . . [E]ducation shall be directed to the full development of the human personality and the sense of its dignity.</p>	<p>CESCR: Urging the elimination of discrimination against Roma children in the Czech Republic by removing them from special schools and integrating them into the mainstream educational system. E/C.12/1/ADD.76 (CESCR, 2002), para. 44.</p>
<p>ICERD 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (d)(v) The right to education and training.</p>	<p>CERD: Calling upon the Czech Republic to promptly eradicate racial segregation and the placement of a disproportionate number of Roma children in special schools. CERD/C/304/ADD.109 (CERD, 2001), para. 10.</p> <p>CERD: noting that cultural and linguistic rights of the San are not fully respected in educational curricula in Botswana. A/57/18(Supp) (CERD, 2001), para. 305.</p>
<p>CRC 28: States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity,</p>	<p>CRC Committee: Calling upon Moldova, Poland, and the Ukraine to develop and implement a plan aimed at integrating all Roma children into mainstream education and prohibiting their segregation into special classes. CRC/C/15/ADD.191 (CRC, 2002), para. 75; CRC/C/15/ADD.194 (CRC, 2002), para. 53; CRC/C/15/ADD.192 (CRC, 2002), para. 50.</p> <p>CRC Committee: urging South Africa to guarantee the rights of San children, particularly concerning language and access to information. CRC/C/15/ADD.122 (CRC, 2000), para. 41.</p>

Other Interpretations

European Charter of Fundamental Rights (14) (1): Everyone has the right to education and to have access to vocational and continuing training. (2) This right includes the possibility to receive free compulsory education.

European Race Equality Directive (1): The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment. (3)(1): Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to: (g) education.

Table 5: Minority Health and the Right to Participate in Public Life

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Ethnic minority members are unable to obtain citizenship papers and a health card, leaving them without access to social and health services. • Labelled “child-like,” ethnic minority members have little say in policy decisions affecting their health and well-being. • Ethnic minorities, particularly women, are unable to participate in public life and access needed social services.

Human Rights Standards	Treaty Body Interpretation
<p>ICCPR 25: Every citizen shall have the right and the opportunity, without . . . distinctions . . . (a) To take part in the conduct of public affairs, directly or through freely chosen representatives.</p>	<p>HRC: Recommending that France “[f]acilitate the participation of persons who are members of minority groups in publicly elected bodies, including the national assembly and local government. In particular, seek ways to increase the number of candidates belonging to minorities included in the list of political parties running for elections. The appointment of persons from minority backgrounds as members of the police, public administration and the judiciary, is also important to assure the representation of the needs of varied communities in the planning, design, implementation and evaluation of policies and programmes affecting them.” CCPR/C/FRA/CO/4 (HRC, 2008).</p>
<p>ICCPR 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.</p>	<p>HRC: Calling for the removal of all administrative obstacles and fees to enable the Roma in Bosnia to obtain personal documents necessary for them to access health insurance and other basic rights. CCPR/C/BIH/CO/1 (HRC, 2006), para. 22.</p>
<p>ICERD 5(c): States will guarantee political rights, in particular the right to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public services.</p>	<p>CERD: Recommending that Paraguay take the necessary steps to register all children in its territory, particularly those residing in areas inhabited by indigenous peoples, while safeguarding and respecting their culture, and ensure that they receive the services required to promote their intellectual and physical development. CERD/C/PRY/CO/1-3 (CERD, 2011).</p> <p>CERD: Indicating that the Roma Council in Bosnia does not have sufficient funding or resources to fulfill its mandate and is rarely consulted by the Council of Ministers. [CERD/C/BIH/CO/6 (CERD, 2006), para. 14.</p> <p>CERD: Noting the cultural, social, economic, and political exclusion of San peoples in Botswana. CERD/A/57/Supp.18 (CERD, 2001), para. 301.</p>
<p>ICERD 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) the right to equal treatment before the tribunals ... (d)(iii) The right to housing; (d)(iv) The right to public health, medical care, social security and social services; (d)(v) The right to education and training.</p>	<p>CERD: Expressing concern that a lack of identification documents effectively deprives the Roma in the Ukraine of their right to equal access to health care, housing, social security, education, and the legal system. CERD/C/UKR/CO, August 2006, para. 11.</p>

Table 5 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>ICESCR 12(1): The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p>CESCR, General Comment 14: Explaining the importance of “participation in political decisions relating to the right to health taken at both the community and national levels.” [para. 17].</p>
<p>CEDAW 7: State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: . . . (b) [t]o participate in the formulation of government policy and the implementation thereof.</p>	<p>CEDAW Committee: Calling for the immediate issuance of identity documents to Roma women in Romania. CEDAW/C/ROM/CO/6 (CEDAW 2006) para. 27.</p>
<p>FCNM 15: The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.</p>	<p>AC: Noting the “weak and ineffective participation by the Roma community” in design and implementation of health strategies in Romania. ACFC/OP/II(2005)007, Nov 2005, para. 540.</p>

Human Rights Standards	Case Law
<p>African Children’s Charter 14 (1): Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.</p> <p>(2) State Parties to the present Charter shall undertake to pursue the full implementation of this right:</p> <p>(b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) to ensure the provision of adequate nutrition and safe drinking water;</p> <p>(g) to integrate basic health service programmes in national development plans.</p>	<p>ACHPR (Committee): The Committee held that Kenya violated the right to health of children of Nubian descent under the African Children’s Charter, stating that “[t]here is de facto inequality in their access to available health care resources, and this can be attributed in practice to their lack of confirmed status as nationals of the Republic of Kenya. Their communities have been provided with fewer facilities and a disproportionately lower share of available resources as their claims to permanence in the country have resulted in health care services in the communities in which they live being systematically overlooked over an extended period of time.” 002/09: <i>IHRDA and Open Society Justice Initiative (OSJI)</i> (on behalf of children of Nubian descent in Kenya) <i>v. Kenya</i>.</p>
<p>ESC 12 Part I: Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.</p> <p>Part II: With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:</p> <ol style="list-style-type: none"> 1. to remove as far as possible the causes of ill-health; 2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; 3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents. 	<p>ECSCR: The Commission held that Bulgaria violated the right to health by not granting about 46% of the Roma population state-subsidized health insurance. Under the current law, many Roma cannot access health insurance because it is made conditional on being eligible for the right to social assistance or being registered as unemployed. <i>European Roma Rights Centre (ERRC) v. Bulgaria</i>, Complaint No. 46/2007(2008).</p>

Table 5 (cont.)

Other Interpretations

SR on the rights of Indigenous People: Stating to the **Congo** that “[i]t is essential, as part of this process, to include indigenous peoples themselves in the design and delivery of culturally appropriate projects, especially in areas of poverty reduction, health and education.” A/HRC/18/35/Add.5 (SR Indigenous, 2011)

SR on the rights of Indigenous People: Highlighting that the San are not sufficiently empowered to impact government decisions regarding allocation of limited resources in **South Africa**. E/CN.4/2006/78/Add.2 (SR Indigenous, 2005), para. 75.

Independent Expert on Minority Issues: Recommending to **Bulgaria**, “The small, inconsistent pilot-project-based approach that has characterized government activities to date will never reach the transformative tipping point necessary to confront the vast socio-economic challenges faced by the Roma. A new, holistic and incisive approach to Roma integration, designed and implemented in full consultation with Roma organizations, is required to break the vicious circle of social exclusion and poverty. Furthermore, Roma themselves must make efforts to engage fully with government initiatives, not as passive recipients, but as pro-active stakeholders in immediate and longer-term Roma integration strategies. It is essential that Roma have a role in decision - making and are fully consulted in decisions that affect them.” A/HRC/19/56/Add.2 (IE Minorities, 2012)

Independent Expert on Minority Issues: Noting of **Kazakhstan** that “groups, including Roma and Luli (or Lyuli), were generally described as nomadic or itinerant and with livelihoods solely in the informal sector [and that] such groups are not represented in the assembly of the people or other state institutions [and] they often lack identification documents required to secure services and may be vulnerable with regard to access to healthcare, education, housing and the effects of extreme poverty.” A/HRC/13/23/Add.1 (IE Minorities, 2010)

Special Rapporteur on the highest attainable level of health: recommending that **Guatemala** “[i]ncorporate and ensure the consultation and participation of indigenous community members in the development of policies and programmes related to the delivery of health services and goods into indigenous communities.” A/HRC/17/25/ADD.2 (SR Health, 2011)

European Race Equality Directive Preamble (12): To ensure the development of democratic and tolerant societies which allow the participation of all persons irrespective of racial or ethnic origin, specific action in the field of discrimination based on racial or ethnic origin should go beyond access to employed and self-employed activities and cover areas such as education, social protection including social security and healthcare, social advantages and access to and supply of goods and services.

Table 6: Minority Health and the Right to Bodily Integrity

Examples of Human Rights Violations
<ul style="list-style-type: none"> • Ethnic minority children are disproportionately targeted by police officers and subjected to ill-treatment and abuse. • Ethnic minority women are coercively sterilized without their fully informed consent. • Ethnic minority women and children are frequent victims of domestic violence due to extreme living conditions such as land dispossession, community isolation, high unemployment, poverty, and alcohol abuse. • Due to discriminatory attitudes, police are especially reluctant to interfere when ethnic minority women are victims of domestic violence.

Note: The right to bodily integrity is not specifically recognized under the ICCPR, ICESCR, or European conventions, but has been interpreted to be part of the right to security of the person (ICCPR 9, ECHR 5), the right to freedom from torture and cruel, inhuman, and degrading treatment (ICCPR 7, ECHR 3), and the right to the highest attainable standard of health (ICESCR 12, ESC 11). The CESCR remarked that a “major goal” under the right to health should be “protecting women from domestic violence.” [CESCR GC 14, para. 21]. Although CEDAW does not specifically address bodily integrity, the CEDAW Committee indicated that the “definition of discrimination includes gender-based violence.” CEDAW Committee, General Rec. 19, paras 6-7.

Human Rights Standards	Treaty Body Interpretation
<p>ICERD 5: State Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . .</p> <p>(b) [t]he right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.</p>	<p>CERD: Recommending that Slovakia “establish clear guidelines concerning the requirement of ‘informed consent’ and to ensure that these guidelines are well-known among practitioners and the public, in particular Roma women [and] that all reports of sterilization without informed consent be duly acknowledged and that victims be provided with adequate remedies, including apologies, compensation and restoration, if possible.” CERD/C/SVK/CO/6-8 (CERD, 2010) This problem also noted by the HRC CCPR/C/SVK/CO/3 (HRC, 2011) and Committee Against Torture CAT/C/SVK/CO/2 (CAT, 2009).</p> <p>CERD: Remarking on police brutality against the Roma in the Ukraine, including arbitrary arrests and illegal detention. A/56/18(SUPP) (CERD, 2001), para. 373.</p> <p>CERD: Noting that Roma members, especially the young, in Albania are subjected to ill-treatment and improper use of force by police officers. CERD/C/63/CO/1 (CERD, 2003), para. 18.</p>
<p>Although CEDAW does not specifically address bodily integrity, the CEDAW Committee indicated that the “definition of discrimination includes gender-based violence.” [CEDAW Committee, General Rec. 19, paras 6-7].</p>	<p>CEDAW Committee: recommending that China “investigate and prosecute reports of abuse and violence against ethnic minority women by local family planning officials, including forced sterilization and forced abortion.” CEDAW/C/CHN/CO/6 (CEDAW, 2006)</p> <p>CEDAW Committee: noting the continuing gender-based discrimination and violence that Roma women face in their own communities in Sweden. A/56/38(SUPP) (CEDAW, 2000), para. 356.</p> <p>CEDAW Committee: calling upon the Czech Republic to provide redress to Roma women victimized by coercive sterilization and to prevent further involuntary sterilizations. CEDAW/C/CZE/CO/3 (CEDAW, 2006), para. 24.</p>

Table 6 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p>CRC 19(1): States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p>	<p>CRC Committee: Recommending that the Syrian Arab Republic “address the issue of temporary marriages, including by raising awareness among children, families and within the community of the negative impact of such marriages on the physical and mental health and general well-being of girls, and ensure that legal proceedings are engaged against those who organize those marriages.” CRC/C/SYR/CO/3-4 (CRC, 2012)</p> <p>CRC Committee: Observing continued allegations of ill-treatment and torture by the police of Roma children in the Ukraine and urging investigation. CRC/C/15/ADD.191 (CRC, 2002), para. 36.</p>
<p>FCNM 6(1): The parties undertake to take appropriate measure to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.</p>	<p>AC: Pointing to cases of abusive behavior, hostile attitudes, and violence by police against Roma members in Romania. ACFC/OP/II(2005)007, November 2005.</p>
<p>The right to bodily integrity is not specifically recognized under the ICCPR, but has been interpreted to be part of the right to security of the person in ICCPR 9, and the right to freedom from torture and cruel, inhuman, and degrading treatment in ICCPR 7.</p>	<p>HRC: Concluding that “Roma and other women have been subjected to sterilization without their consent” and recommending that the Czech Republic “ensure fully informed consent in all proposed cases of sterilization and take the necessary measures to prevent involuntary or coercive sterilization in the future, including written consent forms printed in the Roma language, and explanation of the nature of the proposed medical procedure by a person competent in the patient’s language” CCPR/C/CZE/CO/2 (HRC, 2007).</p>

Human Rights Standards	Case Law
<p>ECHR 8(1): Everyone has the right to respect for his private and family life, his home and his correspondence.</p> <p>ECHR 8(2): There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.</p>	<p>ECtHR: “The applicant [a Roma patient] complained that her right to respect for her private and family life had been violated as a result of her sterilisation without her full and informed consent.” The Court found that there was a violation of Art. 8. Case of <i>V.C. v. Slovakia</i>, 18968/07 (November 8, 2011).</p> <p>ECtHR: NB was sterilized while undergoing a caesarean section at a public hospital. However, NB was only 17 years old at the time of the intervention, so she was also legally a minor. The hospital, in addition to having NB sign the consent form after the administration of tranquilizing premedication, never obtained the consent of her legal guardians. NB did not learn of her sterilization until several months after the fact because it was not noted in her release report from the hospital. The Court unanimously held that NB had been sterilized without informed consent and in contravention of Articles 8 and 13. <i>N.B. v. Slovakia</i>, 29518/10 (June 12, 2012).</p>

3. WHAT IS A HUMAN RIGHTS-BASED APPROACH TO ADVOCACY, LITIGATION, AND PROGRAMMING?

What is a human rights-based approach?

“Human rights are conceived as tools that allow people to live lives of dignity, to be free and equal citizens, to exercise meaningful choices, and to pursue their life plans.”⁶⁷

A human rights-based approach (HRBA) is a conceptual framework that can be applied to advocacy, litigation, and programming and is explicitly shaped by international human rights law. This approach can be integrated into a broad range of program areas, including health, education, law, governance, employment, and social and economic security. While there is no one definition or model of a HRBA, the United Nations has articulated several common principles to guide the mainstreaming of human rights into program and advocacy work:

- The integration of human rights law and principles should be visible in all work, and the aim of all programs and activities should be to contribute directly to the realization of one or more human rights.
- Human rights principles include: “universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law.”⁶⁸ They should inform all stages of programming and advocacy work, including assessment, design and planning, implementation, monitoring and evaluation.
- Human rights principles should also be embodied in the processes of work to strengthen rights-related outcomes. Participation and transparency should be incorporated at all stages and all actors must be accountable for their participation.

A HRBA specifically calls for human rights to guide relationships between rights-holders (individuals and groups with rights) and the duty-bearers (actors with an obligation to fulfill those rights, such as States).⁶⁹ With respect to programming, this requires “[a]ssessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.”⁷⁰

A HRBA is intended to strengthen the capacities of rights-holders to claims their entitlements and to enable duty-bearers to meet their obligations, as defined by international human rights law. A HRBA also draws attention to marginalized, disadvantaged and excluded populations, ensuring that they are considered both rights-holders and duty-bearers, and endowing all populations with the ability to participate in the process and outcomes.

⁶⁷ Yamin AE, “Will we take suffering seriously? Reflections on what applying a human rights framework to health means and why we should care,” *Health and Human Rights* 10, no. 1 (2008).

⁶⁸ For a brief explanation of these principles, see UN Development Group (UNDG), *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies* (May 2003), available at: www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf.

⁶⁹ Ibid.

⁷⁰ Ibid.

What are key elements of a human rights-based approach?

Human rights standards and principles derived from international human rights instrument should guide the process and outcomes of advocacy and programming. The list below contains several principles and questions that may guide you in considering the strength and efficacy of human rights within your own programs or advocacy work. Together these principles form the acronym PANELS.

- **Participation:** Does the activity include participation by all stakeholders, including affected communities, civil society, and marginalized, disadvantaged or excluded groups? Is it situated in close proximity to its intended beneficiaries? Is participation both a means and a goal of the program?
- **Accountability:** Does the activity identify both the entitlements of claim-holders and the obligations of duty-bearers? Does it create mechanisms of accountability for violations of rights? Are all actors involved held accountable for their actions? Are both outcomes and processes monitored and evaluated?
- **Non-discrimination:** Does the activity identify who is most vulnerable, marginalized and excluded? Does it pay particular attention to the needs of vulnerable groups such as women, minorities, indigenous peoples, disabled persons and prisoners?
- **Empowerment:** Does the activity give its rights-holders the power, capacity, and access to bring about a change in their own lives? Does it place them at the center of the process rather than treating them as objects of charity?
- **Linkage to rights:** Does the activity define its objectives in terms of legally enforceable rights, with links to international, regional, and national laws? Does it address the full range of civil, political, economic, social, and cultural rights?
- **Sustainability:** Is the development process of the activity locally owned? Does it aim to reduce disparity? Does it include both top-down and bottom-up approaches? Does it identify immediate, underlying and root causes of problems? Does it include measurable goals and targets? Does it develop and strengthen strategic partnerships among stakeholders?

Why use a human rights-based approach?

There are many benefits to using a human rights-based approach to programming, litigation and advocacy. It lends legitimacy to the activity because a HRBA is based upon international law and accepted globally. A HRBA highlights marginalized and vulnerable populations. A HRBA is effective in reinforcing both human rights and public health objectives, particularly with respect to highly stigmatizing health issues.⁷¹ Other benefits to implementing a human rights-based approach include:

- **Participation:** Increases and strengthens the participation of the local community.
- **Accountability:** Improves transparency and accountability.
- **Non-discrimination:** Reduces vulnerabilities by focusing on the most marginalized and excluded in society.
- **Empowerment:** Capacity building.
- **Linkage to rights:** Promotes the realization of human rights and greater impact on policy and practice.
- **Sustainability:** Promotes sustainable results and sustained change.

How can a human rights-based approach be used?

A variety of human rights standards at the international and regional levels applies to patient care. These standards can be used for many purposes including to:

- Document violations of the rights of patients and advocate for the cessation of these violations.
- Name and shame governments into addressing issues.
- Sue governments for violations of national human rights laws.
- File complaints with national, regional and international human rights bodies.
- Use human rights for strategic organizational development and situational analysis.
- Obtain recognition of the issue from non-governmental organizations, governments or international audiences. Recognition by the UN can offer credibility to an issue and move a government to take that issue more seriously.
- Form alliances with other activists and groups and develop networks.
- Organize and mobilize communities.
- Develop media campaigns.
- Push for law reform.
- Develop guidelines and standards.
- Conduct human rights training and capacity building
- Integrate legal services into health care to increase access to justice and to provide holistic care.
- Integrate a human rights approach in health services delivery.

⁷¹ Gauri V & Gloppen S, *Human Rights Based Approaches to Development: Concepts, Evidence, and Policy*, World Bank Policy Research Working Paper 5938 (Jan. 2012). <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-5938>.

4. WHAT ARE SOME EXAMPLES OF EFFECTIVE HUMAN RIGHTS-BASED WORK IN THE AREA OF MINORITY HEALTH?

This section contains five examples of effective human rights-based work addressing health and human rights in minority communities. These are:

1. Justice for Roma women coercively sterilized in Central Europe
2. Promoting the rights of Roma patients in the Macedonian healthcare system
3. Ending discrimination in access to nationality for children of Nubian descent in Kenya
4. Roma health mediators in Romania
5. Campaign for indigenous health equality in Australia

Example I: Justice for Roma women coercively sterilized in Central Europe

Project Type

Advocacy/Litigation

Organization

The European Roma Rights Centre (A Roma Legal Advocacy Organization), Life Together (a Roma-Czech CBO), the League of Human Rights (a Czech NGO), the Group of Women Harmed by Forced Sterilization (a victims advocacy group), the Peacework Development Fund, the Counseling Center for Citizenship, Civil and Human Rights (a Czech NGO) and the Center for Reproductive Rights (a global legal advocacy organization) have worked together on litigation and advocacy campaigns in the Czech Republic, Hungary, and Slovakia to secure public recognition and compensation for harms suffered by Roma women who were coercively sterilized.

Problem

From the 1970s until 1990, the Czechoslovak government coercively sterilized Roma women, programmatically aiming to reduce their “high, unhealthy” birth rates. Forced sterilization has been documented as late as 2004 in the Czech Republic. Cases have also reportedly occurred in Hungary, Romania, Bulgaria, and Slovakia. Hundreds of Roma women await justice.

Actions Taken

- In 2003, the Center for Reproductive Rights (CRR) and the Slovak Counseling Center published “Body and Soul,” a report on coercive and forced sterilizations of Romani women in Slovakia. In 2004, The European Roma Rights Center (ERRC), and Life Together, along with other local NGOs, documented cases of coercive sterilization and filed complaints with the Ombudsman—the Czech Public Defender of Rights.
- In 2005, Roma women established an advocacy group in the Czech Republic for victims, the Group of Women Harmed by Forced Sterilisation (GWHFS), to push the government and medical authorities for a formal apology and to establish a compensation fund.
- GWHFS used demonstrations and awareness campaigns, and in 2006, a member testified before the UN Committee on the Elimination of Discrimination against Women (CEDAW).
- In July 2011, the ERRC submitted a report to the UN Committee on the Elimination of Racial Discrimination (CERD), *inter alia*, advocating for the elimination of the three-year statute of limitation for involuntary sterilization claims in the Czech Republic and proposing that the Czech Government distribute the FIGO Guidelines on female sterilization to health service providers throughout the country (guidelines available at: www.figo.org/files/figo-corp/FIGO%20-%20Female%20contraceptive%20sterilization.pdf).
- ERRC filed a parallel report to the Universal Periodic Review on the Czech Republic in 2012. The report described the experience of Czech women of Roma origin with respect to involuntary sterilization and recommended that the Czech Government take various measures to comply with its international human rights obligations.

- ERRC, with the support of the Roma Health Project Health Program and OSF, represented a Hungarian woman of Roma origin in a civil action for damages on civil rights and negligence claims. ERRC argued their client's sterilization occurred without full and informed consent. The domestic court of appeal ruled that since sterilizations are reversible no damages were due to ERRC's client. This ruling is based on incorrect medical expert testimony. Therefore, after having exhausted domestic remedies, ERRC brought their client's case to the UN Committee for the Elimination of Discrimination against Women under its Optional Protocol, where the committee found multiple violations of the Convention on the Elimination of Discrimination Against Women and entered judgment for ERRC's client, who was eventually compensated.

Results and Lessons Learned

- In 2005, the Ombudsman undertook an investigation and published a report recognizing coercive sterilization and racial targeting in the Czech medical and social work community. The report recommended changes in domestic law to ensure informed consent and the simplification of compensation procedures.
- The Ombudsman also filed 54 criminal complaints with the local prosecuting office, but many have been dismissed.
- The 2006 CEDAW report to the Czech government expressed concern over cases of coercive sterilization and recommended the adoption of legislative changes to ensure informed consent and victim compensation.
- In 2006, in *A.S. v. Hungary*, CEDAW found Hungary in violation and likewise called for informed consent and compensation legislation. This marks the first time an international human rights tribunal has held a government accountable for failing to provide necessary information to a woman to enable her to give informed consent to a reproductive health-related medical procedure.
- In 2009, the Czech Prime Minister apologized to the country's victims of coercive sterilization .
- The Czech Government is further along in acknowledging its wrongdoings, while the Slovak government has strenuously rejected all allegations made concerning these cases over the last ten years. Slovak government officials have recently called for re-incentivizing sterilization of Romani women in Slovakia .
- In 2011, the International Federation of Obstetrics and Gynecology revised and updated its ethical guidelines on the performance of female sterilization in light of these cases and developments.
- In 2012, the Czech Human Rights Council passed a decision urging the Czech government to introduce a compensation mechanism for all victims of involuntary sterilization.
- On November 13, 2012, the European Court of Human Rights issued its latest judgment in a series of cases dealing with the involuntary sterilization of Roma women in Slovakia. The court unanimously found that two applicants were the victims of coerced sterilization in violation of Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights. The European Court of Human Rights has issued three decisions finding Slovakia in violation of reproductive rights of Romani women due to their forced and sterilization: *V.C. v. Slovakia* [2011], *N.B. v. Slovakia* [2012], and *I.G. and Others v. Slovakia* [2012].
- In 2013, the UN Special Rapporteur on Torture included the issue of forced sterilization in his report on torture in health care.

Minority Health

- International treaties and standards were critical to the litigation to complement the lack of medical experts in Hungary and Czech Republic willing to testify that sterilization is irreversible and the lack of domestic support for such litigation in general.
- Patients whose rights have been violated are the best advocates for change. Collaborations between legal service providers, patient advocates, and Roma activists brought attention to the matter and helped address larger issues.

European Roma Rights Centre

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Web: www.errc.org

Example 2: Promoting the rights of Roma patients in the Macedonian health care system

Project

Advocacy

Actor/Organization

The Association for Emancipation, Solidarity and Equality of Women (ESE) in Macedonia promotes women's human rights and social justice in Macedonia. The ESE paralegal project is supported by the Roma Health Project and the Law and Health Initiative by the Public Health Program at Open Society Foundation. ESE works closely with three Roma human rights groups: (1) the Centre for Democratic Development and Initiatives (CDRIM), which works on democratization and human rights, education, and health for the Roma Community living in Sutro Orizari; (2) the Humanitarian and Charitable Association of Roma (KHAM), which is a Delveco communication organization that aims to improve the social, economic, health and education level of the Roma community; (3) and the Roma Resource Center (RCC), which is focused on social inclusion of marginalized groups, gender equality and transparency in Sutro Orizari. Sazije's case, highlighted below, was identified through the ESE paralegal project but taken up by the Roma SOS.

Problem

Macedonia's Roma community is characterized by high levels of poverty, unemployment, poor health, and a low level of education. Roma remain marginalized from many aspects of public and social life, including access to justice and quality health care services. In 2009, Macedonian law was amended to provide universal health insurance. However, many Roma people living in the slums or temporary dwellings find it difficult to access health insurance, because they often do not have the necessary identity documents to apply for health insurance benefits or have a permanent physical address.

According to Macedonian law, every person has a right to select his or her family doctor, yet many Roma people do not have sufficient information about available health services to realize this right. The doctors of many Roma patients routinely fail to explain their medical conditions adequately, with the result that many chronic disease patients are left unaware of their need for regular checkups. In a study carried out in 2011, ESE found that 76% of patients were not able to procure and use the best therapy, 9.4% said that their information was given away without their consent, and 15.6% said they were denied the right to privacy.

Actions Taken

The Health for all, Health for Roma project is centered around a paralegal program based in the Roma communities in Shutro Orizari and Delcevo. ESE trained ten community paralegals with an emphasis on human rights and patient care, as well as the structure and composition of the health and judicial systems. ESE then placed the paralegals with CDRIM, KHAM, and RCC. ESE also provides continuous case supervision for the paralegals. The paralegals offer advice, accompany clients to institutions to access services, and prepare requests and other written documents needed to realize their clients' health care rights. The paralegals also refer clients to lawyers, government bodies or civil society organizations.

The paralegals undertake a “door to door” program, which involves home visits to Roma households at least once every two months. The project also involves awareness-raising on specific health issues in the community through roundtable debates and public discussions.

Story of Sazije

When Sazije fell and hurt herself, her family doctor referred her to a specialist who ordered a plaster cast for her arm. However, the cast was placed on Sazije’s lower arm, while her pain was in her shoulder. Sazije asked her son to explain this to the doctor, who told her that if she did not like his treatment, she should seek help elsewhere. A few days later, Sazije visited a different specialist, who removed the cast, which was placed incorrectly, and had to break and reset the bone in order for it to heal properly. Seeking justice for the indignity and pain she suffered, Sazije went to the Humanitarian and Charitable Association of Roma (KHAM) which, together with the Association for Emancipation, Solidarity and Equality of Women (ESE) and Roma SOS, helped her initiate court proceedings against the hospital for discrimination and mistreatment based on her Roma status.

“I cannot describe the difficulties and humiliation I experienced. My pain could be relieved only if justice was done for everything that had happened, in the hopes that others would not have to go through the same ordeal.” –Sazije

Results and Lessons Learned

ESE emphasizes the importance of the educational roundtables run by the paralegals from CDRIM, KHAM, and RCC, which aim to inform the local Roma population about the content and importance of patients’ rights and how to enforce them. The roundtables lead to an increase in the number of clients asking for paralegal assistance and support, and also shift the focus from health insurance and medical negligence-related complaints to complaints related to issues such as discrimination, consent, and confidentiality. The project is consequently helping to address rights issues related to health for the entire community, not just individual claims for damages.

Paralegal assistance and support provided on individual cases, combined with informational and educational workshops, contributed towards better understanding of the importance of patients’ rights and the ways of health protection. Raised awareness and understanding had resulted in resolving concrete problems related to health care and health insurance provision. Both of them are essential for fulfilling the right to health.

Continuous training of paralegals is essential to the success of this project, as this has enabled the paralegals to keep up to date with the law and allows them to come back and ask questions on issues that arise during their work. ESE benefits from close relationships with primary and secondary health care services, as well as with registered general practitioners, gynecologists, dentists, and orthodontists. They also collaborate with the local branches of the Health Insurance Fund and with the local Commissions for Patients’ Rights.

Association for Emancipation, Solidarity and Equality of Women (ESE)

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Roma Resource Center (RCC)

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Website: <http://www.rrc.org.mk/>

Roma S.O.S.

Prilep, Macedonia

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Example 3: Ending discrimination in access to nationality for children of Nubian descent in Kenya

Project Type

Litigation: *IHRDA and Open Society Justice Initiative (OSJI) (on behalf of children of Nubian descent in Kenya) v. Kenya*, Communications No 002/09 <http://caselaw.ihrda.org/doc/002.09/>

Actor

The Open Society Justice Initiative (OSJI) uses law to protect and empower people around the world. Through litigation, advocacy, research, and technical assistance, the Justice Initiative promotes human rights and builds legal capacity for open societies. The Justice Initiative works on the following themes: anti-corruption, national criminal justice reform, equality and citizenship, freedom of information and expression, international justice, legal capacity development, and national security and counterterrorism.

Institute for Human Rights and Development in Africa (IHRDA) seeks a “continent where all have access to justice, using national, African and international human rights law and mechanisms for the promotion and protection of their rights.”

Problem

The petitioners alleged that Kenya has historically and unjustly denied Kenyan citizenship to children of Nubian descent. The Nubian population in Kenya arrived during British Colonial rule and were allocated land but denied British citizenship. When Kenya gained independence in 1963, the issue of Nubian citizenship was not addressed and the Government of Kenya continued to deny Kenyan citizenship to persons of Nubian descent.

Upon reaching the age of 18, all Kenyan children apply for an ID card, which is necessary to prove citizenship. For most Kenyan children, this is a simple process; however, Nubian children are forced to go through a long and complex vetting procedure with an uncertain result. Some never receive ID cards. Others receive ID cards only after a long delay.

Lack of citizenship particularly affects Nubian children. They grow up with few life prospects, uncertain as to whether they will be recognized as citizens. Most Nubians live in enclaves of poverty, with no public utilities and limited access to education and health care. The petitioners argued that denial of citizenship to Nubian children was discriminatory and violated the children’s rights to name and nationality, education, and health and health services.

Violations of the African Children’s Charter

- Non-discrimination (Art. 3)
- Right to name and nationality (Art. 6.2, 6.3, 6.4)
- Right to education (Art. 11.3)
- Right to health and health services (Art. 14.2 (a-c, g))

Procedure

The Justice Initiative, together with the Institute for Human Rights and Development in Africa (IHRDA), brought a case to the African Committee of Experts on the Rights and Welfare of the Child on behalf of children of Nubian descent in Kenya.

Arguments and Holdings

Right to birth registration

Kenya is a State Party to the African Children’s Charter. Article 6 of the Charter provides that:

- (1) Every child shall have the right from his birth to a name.
- (2) Every child shall be registered immediately after birth.

Many Nubian parents find it difficult to register their children at birth. At times, resource limitations and practical obstacles obstruct registration. In addition, health officials discriminate against Nubians and refuse to issue birth certificates to children of Nubian descent. Unregistered children are rendered stateless, as they cannot prove their nationality, place of birth, or parentage. The African Committee concluded that Nubian children must have the *de jure* (legal) and *de facto* (actual) right to registration at birth.

Right to nationality

Article 6(3) of the Charter provides that “[e]very child has the right to acquire a nationality.” Yet birth certificates do not confer nationality and children must wait until their eighteenth birthday before applying for an ID card to acquire a Kenyan nationality. In this case, the Committee found a strong link between birth registration and nationality and concluded that “the seemingly routine practice . . . of the State Party that leaves children of Nubian descent without acquiring a nationality for a very long period of 18 years is neither in line with the spirit and purpose of Article 6, not promotes children’s best interests, and therefore constitutes a violation of the African Children’s Charter.” (para. 42).

Stateless children

A birth registration does not confer nationality. An ID card does confer nationality but a child must wait 18 years to receive an ID card, and Nubian children often find it difficult or impossible to obtain an ID card. Therefore, Nubian children are stateless for the first 18 years of their lives, after which they have dim prospects of establishing citizenship and receiving its benefits.

The Committee found the statelessness claim central to the communication. As the Committee pointed out, Article 6(4) of the African Children’s Charter imposes on States Parties to ensure that a child “acquire the nationality of the State in the territory of which he has been born if, at the time of the child’s birth, he is not granted nationality by any other State in accordance with its laws.” Although Kenya maintains its sovereign power to create and maintain its own standards for nationality, it must exercise that power equally and without discrimination. Therefore, although Kenya is not obligated to follow a *jus soli* approach to nationality, the Committee found that Kenya’s *de facto* denial of citizenship to children of Nubian descent violates Article 6(4) of the Charter.

Non-discrimination

The petitioners alleged that the vetting process for children of Nubian descent to obtain ID cards was discriminatory because they were treated differently. The Committee found that the State should facilitate the process for children who would otherwise be stateless. The Committee found Kenya to be in violation of Article 3.

Right to health

The Committee began by referring to two cases heard by the African Commission under Article 16 of the African Charter of Human and Peoples' Rights (ACHPR). The Committee stated, "African jurisprudence places a premium on both the right to health care and the right to underlying conditions of health." (para. 59) The Committee examined the content of Article 14 under the African Children's Charter and found that the provisions were similar in content to Article 16 of the ACHPR and that the African Commission's findings 'bear significant relevance.' (para. 60) The Committee did not elaborate on specifics of health care provision to children of Nubian descent, but said plainly: "The affected [Nubian] children had less access to health services than comparable communities who were not composed of children of Nubian descent. There is *de facto* inequality in their access to available health care resources, and this can be attributed in practice to their lack of confirmed status as nationals of the Republic of Kenya. Their communities have been provided with fewer facilities and a disproportionately lower share of available resources, as their claims to permanence in the country have resulted in health care services in the communities in which they live being systematically overlooked over an extended period of time." With that, the Committee found a violation of Article 14(2)(b,c,g).

Right to education

Using similar reasoning, the Committee found that children of Nubian descent had less access to education facilities and experienced *de facto* inequality in access. The Committee further found that the affected communities had been provided with fewer schools and that their right to education had not been recognized and provided for. The Committee found a violation of Article 11(3).

Commentary and Analysis

The Committee found that Kenya's actions violated the Charter's provisions protecting children's right to nationality, observing that statelessness is the antithesis of the best interests of the child. The Committee also found that Kenya's vetting system unlawfully discriminates against Nubian children in violation of Article 3, leaving them stateless or at risk of statelessness with no legitimate hope of gaining recognition of their citizenship. As a result, Nubian children lack access to adequate health care and education, in violation of Kenya's obligations to provide the highest attainable standard of health and education to all children (Articles 14(2)(a)-(c), (g) and Article 11(3), respectively).

The Committee issued five detailed recommendations, including legislative and administrative reforms, an obligation to consult with affected communities in developing implementation strategies, and the requirement that Kenya implement a non-discriminatory birth registration system. It also established implementation monitoring mechanisms, including an obligation that Kenya report back on implementation within six months, and that a dedicated Committee member monitor implementation.

Additional Resources

Litigation documents

- Letter of Introduction. www.opensocietyfoundations.org/sites/default/files/minorsletter_2009414.pdf
- Submissions on the Merits. www.opensocietyfoundations.org/sites/default/files/nubian-minors-submission-20100603.pdf
- ACERWC: Nubian Minors, Decision, March 22, 2011. www.opensocietyfoundations.org/sites/default/files/ACERWC-nubian-minors-decision-20110322.pdf

Featured Works

- Sebastian Kohn, The Nubian Predicament: A Story about Colonia Legacy, Discrimination, and Statelessness. www.opensocietyfoundations.org/voices/nubian-predicament-story-about-colonial-legacy-discrimination-and-statelessness
- Laura Bingham, On the Agenda in the Algiers: African Children's Rights and Nationality. www.opensocietyfoundations.org/voices/agenda-algiers-african-childrens-rights-and-nationality

Example 4: Roma Health mediators in Romania

Project Type

Advocacy

Organization

Founded on April 4, 1993, Romani CRISS is a human rights NGO with a mission to “defend the rights of Roma in Romania” The organization focuses on issues of education, health, civic mobilization, legal assistance, promoting ethnic identity and other human-rights campaigns. Romani CRISS first pioneered Roma mediation in 1992 as a community conflict mitigation program.

The Public Health Program of Open Society Foundation created and manages a Roma Health Project which has supported the Roma health mediators since 2001.

Problem

Roma are disproportionately excluded from accessing health care services, and they encounter prevalent discrimination by providers. In a 2005 survey among 717 Romanian Roma women, 70% reported discrimination from health providers based on their race/ethnicity. Roma women face particular problems, including coerced sterilization and separate maternity wards. There is no administrative mechanism to address these abuses against the Roma and other vulnerable groups.

Actions Taken

Romani CRISS developed a program in Romania whereby health mediators helped improve communication between the Roma community and health providers through the use of health mediators. Health mediation was designed to improve the Roma health status and access to health care services. The health mediators also refer cases of abuse and discrimination in health facilities to human rights monitors for documentation and legal advocacy.

The objectives of the program are to facilitate communication between medical personnel and Roma communities, and to increase the efficacy of public health interventions. Mediators are usually Roma women with an average level of education, recommended by local communities and agreed upon by medical practitioners, who have successfully completed a brief period of training. Their main responsibilities are to serve as liaisons between communities and health care practitioners; to collect data on the health situation in the community; to facilitate Roma access to health care; to provide health education; and to support public health interventions in Roma communities.

Romani CRISS negotiated an agreement with the Ministry of Health and the Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights. Romani CRISS trains Roman Health Mediators (RHM), who are employees of the public health system. Mediators are from Roma communities but are situated in health clinics to improve communication with providers. They educate communities on how to access health services and sensitize doctors on Roma health needs.

In 2007, Romani CRISS initiated a program to create a link between health mediators and the human rights monitors. Health mediators were trained in human rights, and human rights monitors were trained in health issues. This way, the mediators knew to refer cases of discrimination or abuse to the monitors for documentation, and they could sensitize communities on human rights issues. The monitors would then document cases of discrimination in health care settings and bring them for redress before the National Council to Combat Discrimination, the College of Physicians, and other institutions.

Recommendations for Health Mediator Programs for Minority Populations:

1. Ensure the institutionalization of health mediator programs
2. Include doctors, nurses, social workers, and other professionals in health mediator trainings and professional events
3. Support the development of health mediator professional associations
4. Ensure that program monitoring focuses on outcomes as much as possible
5. Ensure supportive supervision
6. Increase the number of mediators to meet the current needs of the population they serve
7. Ensure continuing education
8. Create opportunities for health and social policy officials to learn from health mediator experiences
9. Ensure that health mediators have a secure contract and salary
10. Ensure that health mediators earn a living wage
11. Ensure that health mediators have the money and other tools required for the tasks

Larger Health Policy Recommendations:

1. Ensure that health education materials that health mediators and health professionals distribute are adapted for the audience
2. Ensure that mediation is part of a continuum of services available to excluded populations
3. Better integrate minority health concerns into health policy
4. Ensure that other steps are taken to reduce poverty among the minority population
5. Ensure that laws relating to personal documentation and health insurance coverage are not too onerous for minority groups
6. Take steps to increase routine vaccination coverage
7. Engage minority men in sexual and reproductive health programs
8. Design programs that take a community-building approach to minority health
9. Increase the number of minority health and social service professionals

Challenges to Roma Health Mediation programs:

1. Low salaries for RHMs
2. Inadequate supervision
3. Lack of professional development opportunities
4. Governments fail to leverage RHM experience
5. Persistence of focus on health care and not the social determinants of health
6. Insufficient cooperation with other actors in the health care system
7. Lack of support because of decentralization
8. Contract and pay insecurity
9. Physicians rely on RHMs to aid Roma clients, relieving themselves of this responsibility

Results and Lessons Learned

Evidence suggests that mediators both directly affect health and change the nature of the community in which programs occur. RHMs increase access to health care and other social services, and increase health literacy among Roma populations. The reporting system operates as a check on rights violations. RHMs do not address structure discrimination, poor health policies, or poverty levels.

The successes of the program include the collaboration between governmental and nongovernmental structures in the planning and implementation of health mediation; the number of women trained and hired as health mediators; the number of beneficiaries; and the geographical coverage, but also the transferability in other European countries that have a significant number of Roma, such as Bulgaria or Macedonia. Other strong points of the program are the focus on preventive instead of curative care; the contribution towards increasing knowledge pertaining to Roma health; and the assistance provided to some of the most vulnerable categories of Roma, particularly the persons lacking identity documents.

With the adoption of its new strategic plan in 2010, Open Society Foundation's Roma Health Project (RHP) shifted focus from health education campaigns and service delivery to human rights-based advocacy. RHP's key achievements since that time include:

- *Legal strategies.* Jointly with the Open Society Foundation's Law and Health Initiative (LAHI), RHP's partners in Macedonia, Romania, and Serbia have piloted legal and paralegal services to remedy human rights abuses against Roma in health settings and to address systemic barriers to health care such as lack of identification documents and health insurance. In Romania, RHP is supporting the European Roma Rights Center to investigate the differential infant mortality rates between Roma and non-Roma communities, and to launch litigation aimed at establishing a government duty to collect ethnically disaggregated data as part of its obligation to promote non-discrimination in health care.
- *Innovations in accountability.* Jointly with Open Society Foundation's Accountability and Monitoring in Health Initiative (AMHI), RHP's partners in Bulgaria, Macedonia, and Romania have successfully used community monitoring to press governments to implement and pay for health programs described in national policy documents. In Bulgaria, a series of "community inquiries" into local health services by over 500 Roma women resulted in a 12% increase in Roma accessing medical examinations free of charge over a period of four months. In Macedonia, a community investigation into measles outbreaks linked to differential immunization rates led to a targeted and long overdue government budget allocation for immunization services in Roma communities.
- *Advocacy and capacity-building.* In Bulgaria, Romania, Macedonia, and Serbia, RHP has built a cohort of NGOs advancing Roma health using rights-based advocacy. In Bulgaria, RHP's partner advocated in 2011 to include Roma as a distinct group in national health policies and guidelines for EU funds. In Romania, RHP's partner contributed to a General Policy Recommendation on Roma Health, which was circulated to all relevant government agencies developing Romania's national Roma strategy. In Macedonia, partners secured a government commitment to finance the salaries, training, and logistics for nine Roma Health Mediators—members of the Roma community who are trained to act as an interface between the Roma community and the health system. In Ukraine, RHP's partner raised third-party funding that more than tripled the number of Roma health mediators in the country.

- *OSF/RHP and European Public Health Alliance (EPHA) Roma health fellows.* In 2012, OSF's Roma Health Project together with EPHA are launching a two-year fellowship to train and mentor two Roma health EU advocates. The fellowship aims to increase the capacity of the Roma community for leadership on Roma health at EU level by facilitating advocacy efforts for establishment of an EU Roma Health Strategy. More information is available at: www.epha.org/spip.php?article5017.
- *Roma health at the European Union.* As members of the Roma Civil Society Contact Group on the Right to Health, established in 2012 by the World Health Organization and the Office of the High Commissioner for Human Rights, seven RHP partners have provided policy guidance on health-focused components of National Roma Integration Strategies (NRIS), the EU Platform for Roma Inclusion, the Decade of Roma Inclusion, and national health programs. In June 2012, one of these partners convened a European Commission hearing on strengthening monitoring and evaluation of NRIS recommendations that resulted after the hearing and the link with more information about the EU hearing: <http://amalipe.com/index.php?nav=news&id=1234&lang=2>.
- RHP is participating in an OSF-wide effort to leverage the European Cohesion Policy towards greater Roma integration by proposing ex ante conditionalities for Structural Funds for health.
- *Individual leadership.* Together with the Roma Education Fund (REF), RHP spearheaded the Roma Health Scholarship Program (RHSP), which since 2008 has awarded a total of 676 scholarships for tertiary and vocational medical education in Romania, Bulgaria, Macedonia, and Serbia. In 2010, RHP/REF's partners in Romania secured €4,800,000 in European Structural Funds to sustain RHSP over three years. RHSP's combination of scholarships, preparatory courses, advocacy training, mentorship, and media outreach is creating a generation of Roma health professionals with the potential to challenge deep-rooted anti-Roma prejudice within health systems.

Romani CRISS

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Example 5: Campaign for indigenous health equality in Australia

Project

Advocacy

Actor/Organization

The Australian Human Rights and Equal Opportunity Commission (HREOC) was created by law in 1986. The position of Aboriginal and Torres Strait Islander Social Justice Commissioner was created within the HREOC in 1993 with the intent to advance the rights of indigenous peoples through reporting and research.

In 2005, the Aboriginal and Torres Strait Islander Social Justice Commissioner released a report including a chapter on indigenous health inequality in Australia. The chapter outlines a human rights based campaign for achieving Aboriginal and Torres Strait Islander health equality within a generation. This resulted in the creation of a coalition on Aboriginal Health called “Close the Gap” in 2006. Close the Gap is a coalition of indigenous and non-indigenous health and human rights organizations who are working in the Australian government to improve health equality for indigenous populations. The group is led by the Aboriginal and Torres Strait Islander Social Justice Commissioner.

Problem

Indigenous peoples in Australia experience unequal access to the right to health. The average Australian woman is expected to live 82 years, while an indigenous woman can expect to live only 64.8 years. The Social Justice Report provides further evidence of the inequality in health outcomes for indigenous peoples.

The report recognizes that the inequality in health status of indigenous people is linked to systemic discrimination. Indigenous people have restricted access to health services as well as inadequate health infrastructure in some communities, including safe drinking water, proper sewage systems, garbage collection, and adequate housing.

“It is not credible to suggest that one of the wealthiest nations in the world cannot solve a health crisis affecting less than three per cent of its citizens.”

— Tom Calma

*Aboriginal and Torres Strait Islander Social Justice Commissioner
Social Justice Report 2005*

Actions Taken

The Social Justice Report 2005 discusses the health inequities among indigenous people and the current policy approach and proposes an approach to achieving health equality for Indigenous people within a generation. Based upon this proposed human rights-based approach to health equality, a coalition was formed to realize the goals of the approach by 2030 – Close the Gap campaign.

Close the Gap adopted the goals from the 2005 report and has moved forward to develop partnerships with indigenous peoples as well as government officials and NGOs. The campaign is pushing to develop a National Plan with concrete targets that the government would be committed to achieving.

Results and Lessons Learned

Close the Gap has made some impressive inroads since its inception in 2006. In 2008, they held a National Indigenous Health Equality Summit, during which the former prime minister and opposition leader signed the Close the Gap Statement of Intent. When the government signed the National Partnership Agreement, it also pledged \$1.6 billion dollars to the effort. In addition, Close the Gap secured about \$5 billion in additional resources with seven additional National Partnership Agreements.

In July 2008, the Close the Gap National Indigenous Health Equality Targets were published and presented to the Federal Health Minister. Developed by a range of experts, the Health Equality Targets aimed to provide a framework of priorities and key indicators of progress towards health equality. The government also agreed to make an annual report to parliament on its progress, beginning in 2009. The Close the Gap campaign has provided shadow reports to the annual report, providing their assessment of the government's progress

In addition to partnerships with the government and NGOs, Close the Gap has also developed significant public outreach and participation efforts. There is now an annual National Close the Gap Day in Australia with activities and events, where in 2012, 130,000 Australians participated. There is also a public Close the Gap pledge.

In late 2011, these developments culminated in emergence of the National Health Leadership Forum (NHLF). While linked to the Close the Gap Campaign, the NHLF functions independently and was created with a specific purpose – to serve as an interface for government to partner with Aboriginal and Torres Strait Islander peoples and their organizations in the development and implementation of health policy that affects these populations.

Additional Resources

Close the Gap: Campaign for Indigenous Health Equality

http://humanrights.gov.au/social_justice/health/index.html

Close the Gap: Oxfam Australia (Links to Close the Gap Pledge and National Close the Gap Day)

www.oxfam.org.au/explore/indigenous-australia/close-the-gap/

Social Justice Report 2005 - Chapter 2: Achieving Aboriginal and Torres Strait Islander health equality with- in a generation – A human rights based approach

http://humanrights.gov.au/social_justice/sj_report/sjreport05/pdf/SocialJustice2005.pdf

National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes Implementation

Plan: [www.health.gov.au/internet/main/Publishing.nsf/Content/closinggap-tacklingchronicdisease/\\$File/commonwealth_implementation_plan.pdf](http://www.health.gov.au/internet/main/Publishing.nsf/Content/closinggap-tacklingchronicdisease/$File/commonwealth_implementation_plan.pdf)

Close the Gap Community Guide: http://humanrights.gov.au/social_justice/health/ctg_community.pdf

5. WHAT STEPS CAN GOVERNMENT AND KEY STAKEHOLDERS TAKE TO IMPROVE THE HEALTH STATUS OF MINORITY POPULATIONS?

The preceding case studies are concrete examples of projects using human rights mechanisms to improve access to health care and the health status of minority individuals and communities. The spectrum of barriers to health care for minority populations is broad, including discrimination in health care settings, a legacy of ineffective public policies, and geographic isolation. The table below presents some steps that governments and other key stakeholders can take immediately to begin to overcome these obstacles.

Ten steps for overcoming barriers to health care for minority populations:

Governments:

1. Appoint minority representatives to participate in the design, implementation, and evaluation of health programs and policies that affect their lives.
2. Ensure that policies and legislation address social factors that determine health and the needs of minorities. Interventions that aim to improve housing, for example, are critical to reducing TB infections.
3. Support the collection of ethnically disaggregated data and, based on this data, allocate resources to populations most in need of basic health services. Communities should be involved in the data collection and analysis process.
4. Train health care workers in communicating and working with minority and marginalized populations.
5. Establish an ombudsperson office or other monitoring mechanism in health care systems to follow up reports of abuse or discrimination in health care settings.
6. Grant under-represented minority students incentives and assistance to enter health care professions.

Civil society, donors, researchers, media:

7. Civil society should become more familiar with instruments designed to protect and promote human rights, including the right to health for minorities.
8. Donors should invest in the institutional and capacity development of Roma leadership to engage effectively on policy issues affecting access to health and social services.
9. Academic, government, and other research communities should explore the inequities in access to health care for minorities and other marginalized populations.
10. Media should investigate and report systemic causes of the inequity in health status between minorities and the majority population in a balanced and fair manner.

Source: Open Society Institute Public Health Program. Left Out: Roma and Access to Health Care in Eastern Europe and South Eastern Europe, 2007.

6. WHERE CAN I FIND ADDITIONAL RESOURCES ON MINORITY COMMUNITIES, HEALTH, AND HUMAN RIGHTS?

A list of commonly used resources on health and human rights in minority communities follows. It is organized into the following categories:

- A. International Instruments
- B. Regional Instruments
- C. Other Declarations and Statements
- D. Minority Rights (General)
- E. Right to Non-Discrimination
- F. Right to the Highest Attainable Standard of Health
- G. Right to Education
- H. Right to Participate in Public Life
- I. Right to Bodily Integrity
- J. Rights of Minority Women
- K. Rights of Minority Children
- L. Rights of the Roma
- M. Training Guides and Manuals
- N. Websites
- O. Websites focused on Roma Rights

A. International Instruments

Binding

- ILO
 - *Discrimination (Employment and Occupation) Convention*, No. 111 (1958). www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_85_en.pdf.
 - *Declaration on Fundamental Principles and Rights at Work* (1998). www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm.
- UNESCO
 - *Convention against Discrimination in Education* (1960). http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html.
 - *Convention for the Safeguarding of the Intangible Cultural Heritage* (2003). www.unesco.org/culture/ich/index.php?lg=en&pg=00022.
 - *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005). http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html.
- UN Conference of Plenipotentiaries, *Convention relating to the Status of Refugees and Stateless Persons* (1951) and *Protocol Relating to the Status of Refugees* (1967). www.unhcr.org/pages/49da0e466.html.
- UN General Assembly
 - *Convention on the Prevention and Punishment of the Crime of Genocide* (1948). <http://treaties.un.org/doc/Publication/UNTS/Volume%2078/volume-78-I-1021-English.pdf>.
 - *International Convention on the Elimination of All Forms of Racial Discrimination*, CERD/C/351/Add.1 (1965). www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx.

Nonbinding

- UN Commission on Human Rights, *Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, E/CN.4/Sub.2/AC.5/2005/2 (2005). http://www.ohchr.org/Documents/Events/Minority2012/Go513385_en.pdf
- UN Committee on the Elimination of Racial Discrimination (CERD).
 - General Recommendations. www2.ohchr.org/english/bodies/cerd/comments.htm.
 - *Guidelines for the early warning and urgent action procedures*, Annual report A/62/18, Annexes, Chapter III (2007). www2.ohchr.org/english/bodies/cerd/docs/Revised_Guidelines_2007_en.doc.
- UN General Assembly.
 - *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, Resolution 36/55 (1981). www.unesco.org/most/migration/full_dec_elim1.htm.
 - *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, Resolution 47/135 (1992) [United Nations Minority Declaration]. www.ohchr.org/Documents/Publications/GuideMinoritiesDeclarationen.pdf.
- UN Human Rights Council, Forum on Minority Issues, *Compilation of Recommendations of the First Four Sessions 2008-2011*. www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/ForumIndex.aspx.

- UNESCO
 - *Declaration on Race and Racial Prejudice*, E/CN.4/Sub.2/1982/2/Add.1, annex V (1982). www.unesco.org/education/nfsunesco/pdf/RACE_E.PDF.
 - *Declaration of Principles on Tolerance*, Document 28 C/Resolution 5.61 (1995). www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/124-129.HTM.
 - *Recommendation against Discrimination in Education* (1960). http://portal.unesco.org/en/ev.php-URL_ID=13065&URL_DO=DO_TOPIC&URL_SECTION=201.html.
- United Nations Office of the High Commissioner of Human Rights
 - *Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities* (2013). www.ohchr.org/en/Issues/Minorities/Pages/MinoritiesIndex.aspx.
 - *Minority Rights: International Standards and Guidance for Implementation*, HR/PUB/10/3 (2011). www.ohchr.org/en/Issues/Minorities/Pages/MinoritiesIndex.aspx.
- United Nations, Durban Declaration and Programme of Action.
 - *Declaration*, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, South Africa (31 August–7 September 2001). www.un.org/durbanreview2009/ddpa.shtml.
 - *Outcome document of the Durban Review Conference*, Durban Review Conference, Geneva, Switzerland (20–24 April 2009). www.un.org/durbanreview2009/conference.shtml.

B. Regional Instruments⁷²

Council of Europe (COE)

Binding

- *Convention on Human Rights and Biomedicine: Convention for the protection of Human Rights and dignity of the human being with regard to the application of biology and medicine*, CETS No. 164 (April 4, 1997). <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=164&CL=ENG>.
- *European Charter for Regional or Minority Languages* (May 11, 1992). <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=148&CL=ENG>.

Nonbinding

- European Commission against Racism and Intolerance, *General Policy Recommendation No. 11: on combating racism and racial discrimination in policing* (2007). www.coe.int/t/dlapil/codexter/Source/ECRI_Recommendation_11_2007_EN.pdf.
- *Framework Convention for the Protection of National Minorities* (1995). <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>.
 - Thematic Commentaries on Education (2006), Participation (2008), and Language Rights (2012). www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Thematic_Intro_en.asp.

⁷² The European Union (EU) and the Council of Europe (COE) represent separate and distinct jurisdictions. While EU member states are automatically bound by EU instruments, COE member states are not bound by COE instruments unless they choose to be. Additionally, COE members are not necessarily EU members, and COE instruments are not binding on the EU itself.

- o State Reports, Opinions, Comments and Resolutions:
www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp.
- *Guiding Principles for Improving the Situation of the Roma* (1999). www.coe.int/t/dg3/romatravellers/archive/documentation/recommendations/MiscCOCENguidelineseu_en.asp.
- *Recommendation of the Committee of Ministers to member states on better access to health care for Roma and Travellers in Europe* (2006).
<http://wcd.coe.int/ViewDoc.jsp?id=1019695&Site=CM>.
- *Recommendation on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe* (2001). <http://wcd.coe.int/ViewDoc.jsp?id=241681&Site=CM>.
- *Recommendation of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe* (2009).
www.coe.int/T/DG3/RomaTravellers/documentation/recommendations/reeducation20004_en.asp.
- *Recommendation (2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe* (2008).
www.coe.int/T/DG3/RomaTravellers/documentation/recommendations/rechousing20054_en.asp.

European Union (EU)

Binding

- European Council, *Council Directive Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin* [Racial Equality Directive], 2000/43/EC (June 29, 2000).
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:180:0022:0026:en:PDF>.
- European Council, *Council Directive establishing a General Framework for Equal Treatment in Employment and Occupation* [Equality Employment Framework Directive], 2000/78/EC (November 27, 2000).
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>.

Nonbinding

- European Commission, *An EU Framework for National Roma Integration Strategies up to 2020* (2011).
http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf.

Organization for Security and Cooperation in Europe (OSCE)

Nonbinding

- *Decision No. 566: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area* (2003).
www.osce.org/odihr/17554.
- *Decision No. 6/08: Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area* (2008). www.osce.org/mc/35488.
- Conference on Security and Co-operation in Europe, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE* (June 5-29, 1990). www.osce.org/odihr/elections/14304.

- High Commissioner on National Minorities.
 - *Guidelines on the Use of Minority Languages in the Broadcast Media* (2003). www.osce.org/hcnm/32310?download=true.
 - *Recommendations on Policing in Multi-Ethnic Societies* (2006). www.osce.org/hcnm/32227?download=true.
 - *The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note* (1999). www.osce.org/hcnm/32240?download=true.
 - *The Oslo Recommendations regarding the Linguistic Rights of National Minorities* (1998). www.osce.org/hcnm/67531.

C. Other Declarations and Statements

- The Equal Rights Trust, *Declaration of Principles on Equality* (2008). www.equalrightstrust.org/endorse/index.htm.

D. Minority Rights - General

- Alston P and Lowe V, eds., *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities* (Oxford University Press, 2005). <http://fds.oup.com/www.oup.co.uk/pdf/0-19-927858-X.pdf>.
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- European Union, Agency for Fundamental Rights (EU FRA). <http://fra.europa.eu>.
- *Respect for and protection of persons belonging to minorities 2008-2010* (2011). <http://fra.europa.eu/en/publication/2011/respect-and-protection-persons-belonging-minorities-2008-2010>.
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- OHCHR, *Booklet on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (2010). www.ohchr.org/Documents/Issues/Minorities/Booklet_Minorities_English.pdf.
- OHCHR, *Towards Developing Country Engagement Strategies on Minorities: An Information Note for OHCHR staff and other practitioners* (2010). www.ohchr.org/Documents/Publications/Strategies_on_minoritiesEN.pdf.
- UN Human Rights Council
 - *Compilation of United Nations manuals, guides, training material and other tools on minority issues*, Report of the OHCHR, A/HRC/16/29 (2010). www.ohchr.org/Documents/Issues/Minorities/CompilationMinorities.pdf.
 - *Rights of persons belonging to national or ethnic, religious and linguistic minorities*, Report of the UN High Commissioner for Human Rights, A/HRC/19/27 (2011). <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/172/78/PDF/G1117278.pdf>.

- o *Summary of the panel discussion to commemorate the twentieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, Report of the UN High Commissioner for Human Rights, A/HRC/20/6 (2012). www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-6_en.pdf.

E. Right to Non-Discrimination

- Asian Human Rights Commission, “Caste-Based Discrimination”. www.humanrights.asia/issues/ caste-based-discrimination.
- European Union, Agency for Fundamental Rights
 - o *EU-MIDIS: European Union Minorities and Discrimination Survey: Main Results Report* (2009). <http://fra.europa.eu/en/survey/2012/eu-midis-european-union-minorities-and-discrimination-survey>.
 - o *Migrants, minorities and employment - Exclusion and discrimination in the 27 Member States of the European Union (Update 2003-2008)* (2011). <http://fra.europa.eu/en/publication/2011/migrants-minorities-and-employment-exclusion-and-discrimination-27-member-states>.
 - o *The Racial Equality Directive: application and challenges* (2012). <http://fra.europa.eu/en/publication/2012/racial-equality-directive-application-and-challenges>.
- Human Rights Watch, *Discrimination, Inequality, and Poverty: A Human Rights Perspective*, “Addressing Inequalities” Global Thematic Consultation - Call for Proposals for Background Papers (2012). www.hrw.org/news/2013/01/11/discrimination-inequality-and-poverty-human-rights-perspective.
- International Movement Against All Forms of Discrimination and Racism (IMADR), *13 Contemporary Forms Of Racial Discrimination: Reflections of Our Times* (2013). www.imadr.org/books/peoples-13.
- INTERIGHTS, *Non-Discrimination in International Law: A Handbook for Practitioners* (2011). www.interights.org/handbook/index.html.
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F. Right to Health

- European Roma Rights Centre. *Ambulance not on the way: the Disgrace of Health Care for Roma in Europe* (Open Society Institute, 2006). www.opensocietyfoundations.org/reports/ambulance-not-way-disgrace-health-care-roma-europe.
- European Union, *Health and the Roma Community: Analysis of the Situation in Europe: Bulgaria, Czech Republic, Greece, Portugal, Romania, Slovakia, Spain* (2009). http://ec.europa.eu/justice/discrimination/files/roma_health_en.pdf.
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- Open Society Foundations, Public Health Program
 - “Roma Health”: www.opensocietyfoundations.org/topics/roma-health.
 - *Roma Health Mediators: Successes and Challenges* (2011). www.opensocietyfoundations.org/reports/roma-health-mediators-successes-and-challenges.
 - *Roma Health a Focus at European Public Health Conference* (2012). www.opensocietyfoundations.org/voices/roma-health-focus-european-public-health-conference.
- Romani CRISS, *Roma Health: Perspectives of the Actors Involved in the Health System: Doctors, Health Mediators and Patients* (2011). www.romanicriss.org/PDF/raport%20ofinal%20osi%20health%20_engleza.pdf.
- US Department of Health and Human Services
 - Agency for Healthcare Research and Quality, *National Healthcare Disparities Report* (2011). www.ahrq.gov/research/findings/nhqrdr/nhqrdr11/qdrdr11.html.
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- WHO Europe, “Roma health newsletter”, www.euro.who.int/en/what-we-publish/newsletters/roma-health-newsletter.

G. Right to Education

(See also “Rights of Minority Children” and Chapter 6: Children’s Health and Human Rights)

- Center for Urban and Regional Sociology, Romani CRISS and Roma Education Fund, *Inequity and Inequality: Teacher Absenteeism, Roma Pupils and Primary Schools in Romania* (2012). www.romaeducationfund.hu/sites/default/files/publications/ref_ta_screen_doublepages.pdf.
- Open Society Foundations
 - Education & Youth. www.opensocietyfoundations.org/issues/education-youth.
 - *Failing Another Generation: The Travesty of Roma Education in Czech Republic* (2012). www.opensocietyfoundations.org/sites/default/files/failing-another-generation-20120601_o.pdf.
- Roma Education Fund (REF). www.romaeducationfund.hu.
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H. Right to Participate in Public Life

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I. Right to Bodily Integrity

- Human Rights Watch
 - “*The Government Could Have Stopped This*”: *Sectarian Violence and Ensuing Abuses in Burma’s Arakan State* (2012). <http://www.hrw.org/reports/2012/07/31/government-could-have-stopped>.
 - *Hate on the Streets: Xenophobic Violence in Greece* (2012). <http://www.hrw.org/reports/2012/07/10/hate-streets-o>.
 - *Everyday Intolerance: Racist and Xenophobic Violence in Italy* (2011). <http://www.hrw.org/reports/2011/03/21/everyday-intolerance-o>.
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 - *In Religion’s Name: Abuses against Religious Minorities in Indonesia* (2013). <http://www.hrw.org/reports/2013/02/28/religion-s-name-o>.

J. Rights of Minority Women

- Center for Reproductive Rights, *Body and Soul: Forced Sterilization and other Assaults on Roma Reproductive Freedom in Slovakia* (2003). http://reproductiverights.org/sites/default/files/documents/bo_slov_part1.pdf.
- Council of Europe, *Breaking the Barriers: Romani Women and Access to Public Health Care* (2003). http://fra.europa.eu/sites/default/files/fra_uploads/180-ROMA-HC-EN.pdf.

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 - *Minority women deliberately targeted for rape and other violence – new global report* (July 6, 2011). www.minorityrights.org/10851/press-releases/minority-women-deliberately-targeted-for-rape-and-other-violence-new-global-report.html.
 - *Promoting the rights of minority children and women: a review of UNICEF's policies and practices* (2010). www.unicef.org/policyanalysis/rights/files/UNICEF_MRG_Report.pdf.
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- Violence Is Not Our Culture: www.violenceisnotourculture.org.

K. Rights of Minority Children

(See also “Right to Education” and Chapter 6: Children’s Health and Human Rights)

- Human Rights Watch, “*The Root of Humiliation*”: *Abusive Identity Checks in France* (2012). <http://www.hrw.org/reports/2012/01/26/root-humiliation>.
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- European Union, Agency for Fundamental Rights: <http://fra.europa.eu/en>.
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- Health Poverty Action: www.healthpovertyaction.org.
- Human Rights First, Fighting Discrimination Program: www.humanrightsfirst.org/our-work/fighting-discrimination.
- International Movement Against All Forms of Discrimination and Racism (IMADR): www.imadr.org.
- International Society for Equity in Health (ISEqH): www.iseqh.org.
- Minority Rights Group International: www.minorityrights.org.
- OHCHR, “Minorities”: www.ohchr.org/EN/Issues/Minorities/Pages/MinoritiesIndex.aspx.
- OSCE, High Commissioner on National Minorities”: www.osce.org/hcnm.
- UN Human Rights Council, Forum on Minority Issues: www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/ForumIndex.aspx.
- UN Independent Expert on minority issues: www.ohchr.org/en/Issues/Minorities/IEExpert/Pages/IEminorityissuesIndex.aspx.
- UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/IndexSRRacism.aspx.
- UN Special Rapporteur on counter-terrorism and human rights: www.ohchr.org/EN/Issues/Terrorism/Pages/SRTerrorismIndex.aspx.
- UN Special Rapporteur in the field of cultural rights: www.ohchr.org/EN/Issues/CulturalRights/Pages/SRCulturalRightsIndex.aspx.
- UN Special Rapporteur on freedom of religion or belief: www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx.

O. Websites focused on Roma rights

- Council of Europe: Roma and Travellers: www.coe.int/T/DG3/RomaTravellers/Default_en.asp.
- Decade of Roma Inclusion: www.romadecade.org.
 - The Decade of Roma Inclusion 2005–2015 is a political commitment by governments in Central and Southeastern Europe to combat Roma poverty, exclusion, and discrimination within a regional framework.
- Dosta: www.dosta.org/.
- European Roma Information Office (ERIO): www.erionet.org.
- European Roma Rights Center: www.errc.org.
- European Union, European Commission,
 - “EU and Roma”: http://ec.europa.eu/justice/discrimination/roma/index_en.htm.
 - Roma Portal: <http://ec.europa.eu/roma>.
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- Open Society Foundation
 - Roma Initiatives Office: www.opensocietyfoundations.org/about/programs/roma-initiatives-office.
 - Roma Participation Program: www.soros.org/initiatives/roma/focus/rpp.
- Roma Education Fund (REF). www.romaeducationfund.hu
- Roma Women Network: www.romawoman.org.
- Romani Center for Social Intervention and Studies (Romani CRISS): www.romanicriss.org.
- Romedia Foundation: www.romediafoundation.org.
- World Bank, “World Bank and the Roma”: www.worldbank.org/roma

7. WHERE CAN I FIND ADDITIONAL RESOURCES ON INDIGENOUS PEOPLES, HEALTH, AND HUMAN RIGHTS?

A list of commonly used resources on health and human rights of indigenous peoples follows. It is organized into the following categories:

- A. International Instruments
- B. Regional Instruments
- C. Indigenous Rights - General
- D. Right to Health
- E. Right to Housing
- F. Rights of Indigenous Women
- G. Rights of Indigenous Children
- H. Training, Database & Study Guides
- I. Websites

A. International Instruments

Binding

- ILO, *Indigenous and Tribal Peoples Convention*, No. 169 (1989).
www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm.

Nonbinding

- UN Committee on the Rights of the Child (CRC).
 - *General Comment no. 11: Indigenous children and their rights under the Convention* (2009).
www2.ohchr.org/english/bodies/crc/comments.htm.
 - *The rights of indigenous children*, Recommendation (2003).
<http://www2.ohchr.org/english/bodies/crc/discussion.htm>.
- UN Committee on the Elimination of Racial Discrimination (CERD).
 - General Recommendations: www2.ohchr.org/english/bodies/cerd/comments.htm.
- UN Development Group, *UNDG Guidelines on Indigenous Peoples issues* (2008).
www.ohchr.org/Documents/Publications/UNDG_training_16EN.pdf.
- UN Human Rights Council, Expert Mechanism on the Rights of Indigenous Peoples.
www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx.

- o *Advice No. 1 (2009) on the Indigenous Peoples' Right to Education*
- o *Advice No 2 (2011): Indigenous peoples and the right to participate in decision making*
- o *Advice No 3 (2012) on Indigenous peoples' languages and cultures*
- o *Advice No 4 (2012) on Indigenous peoples and the right to participate in decision making, with a focus on extractive industries*
- United Nations, *UN Declaration on the Rights of Indigenous Peoples*, U.N. Doc. A/RES 61/295 (September 7, 2007). www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

B. Regional Instruments

Binding

- Inter-American Commission on Human Rights, *American Declaration on the Rights of the Indigenous Peoples* OEA/Ser/L/V/II.95 Doc.6 (February 26, 1997). www.cidh.oas.org/indigenas/chap.2g.htm.

C. Indigenous Rights - General

- African Commission on Human and Peoples' Rights, *Indigenous Peoples in Africa: The Forgotten Peoples? The African Commission's work on indigenous peoples in Africa* (2006). www.ilo.org/indigenous/Resources/Publications/WCMS_115929/lang-en/index.htm.
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- UN Department of Economic and Social Affairs, *State of the World's Indigenous Peoples* (2009). www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf.

D. Right to Health

- Barnsley I, "The Right to Health of Indigenous Peoples in the Industrialized World: A Research Agenda" *Health and Human Rights* 9, no. 1 (2006): 43-54. www.hhrjournal.org/archives-pdf/4065389.pdf.banned.pdf.
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E. Right to Housing

- United Nations Human Settlements Programme, *Indigenous peoples’ right to adequate housing: A global overview* (2005). www.ohchr.org/Documents/Publications/IndigenousPeoplesHousingen.pdf.

F. Rights of Indigenous Women

- Banda F and Chinkin C, *Gender, Minorities and Indigenous Peoples* (Minority Rights Group International, 2004). www.minorityrights.org/download.php?id=115.
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- UNFPA, *Forum: Indigenous Women in Latin America*. www.unfpa.org/rights/indigenous.htm.

G. Rights of Indigenous Children

(See also Chapter 6: Children’s Health and Human Rights)

- Jóvenes Indígenas. www.jovenesindigenas.com.
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- UN International Indigenous Youth Caucus. <http://projects.tigweb.org/indigenous>.
- UNICEF, *Human Rights-based Approach to Programming, “Indigenous and Minority Children”*. www.unicef.org/policyanalysis/rights/index_60331.html.
- UNICEF, Secretariat of the Permanent Forum on Indigenous Issues, Global Indigenous Youth Caucus, *Know Your Rights! United Nations Declaration on the Rights of Indigenous Peoples for indigenous adolescents* (2013). www.unicef.org/policyanalysis/rights/files/HRBAP_UN_Rights_Indig_Peoples.pdf.
- UNICEF, “Children of minorities or of indigenous peoples”, *Implementation Handbook for the Convention on the Rights of the Child* (2007).
 - *Handbook*: www.unicef.org/crc/files/Implementation%20Handbook%203rd%20ed.pdf.
 - *Checklists*: www.unicef.org/ceecis/handbook_2_CHECKLISTS.pdf.

H. Training, Database and Study Guides

- ILO, *Indigenous & Tribal People's Rights in Practice - A Guide to ILO Convention No. 169* (2009). www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_106474.pdf.
- ILO, "PRO 169 Training Tool Box on Indigenous Peoples' Rights". www.pro169.org
- University of Minnesota Human Rights Center, "STUDY GUIDE: The Rights of Indigenous Peoples" (2003). www1.umn.edu/humanrts/edumat/studyguides/indigenous.html.
- University of Pretoria, Centre for Human Rights, Indigenous Peoples' Rights Database: www1.chr.up.ac.za/chr_old/indigenous/index.html.

I. Websites

- Amnesty International Canada, "Indigenous Peoples". www.amnesty.ca/our-work/issues/indigenous-peoples
- Asia Indigenous Peoples Pact (AIPP). www.aippnet.org
- Asian Human Rights Commission, "Indigenous People". www.humanrights.asia/issues/indigenous-people
- Consejo Civico de Organizaciones Populares e Indígenas de Honduras (COPINH): www.copinh.org.
- Cultural Survival: www.culturalsurvival.org.
- European Union, "EU policy on indigenous peoples": http://eeas.europa.eu/human_rights/ip/index_en.htm.
- First Peoples Worldwide: www.firstpeoples.org.
- Forest Peoples Programme: www.forestpeoples.org.
- Government Organizations
 - Australian Human Rights Commission, "Aboriginal & Torres Strait Islander Social Justice": www.humanrights.gov.au/social_justice/index.html.
 - Government of Canada, "Aboriginal Affairs and Northern Development Canada": www.aandc-aadnc.gc.ca.
 - U.S. Government, Bureau of Indian Affairs: www.bia.gov.
- ILO, "Indigenous and Tribal Peoples": www.ilo.org/indigenous.
- Indigenous Human Rights Network Australia: www.ihrna.info.
- Indigenous Peoples of Africa Coordinating Committee (IPACC): www.ipacc.org.za/eng/default.asp.
- Indigenous Peoples Links (PIPLinks): <http://int.piplinks.org>.
- International Work Group on Indigenous Affairs: www.iwgia.org.
- Legal Assistance Centre: www.lac.org.na.
- National Congress of American Indians: www.ncai.org.
- Survival International: www.survivalinternational.org.
- UNFPA, "Putting Rights into Practice: Addressing the Rights of Indigenous Peoples": www.unfpa.org/rights/people.htm.

- UN OHCHR, The Expert Mechanism on the Rights of Indigenous Peoples (2007). <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>.
- UN OHCHR, “Indigenous Peoples”. www.ohchr.org/EN/Issues/IPeoples/Pages/IndigenousPeoplesIndex.aspx.
- UN Permanent Forum on Indigenous Issues. <http://social.un.org/index/IndigenousPeoples.aspx>.
- “Health”: <http://social.un.org/index/IndigenousPeoples/ThematicIssues/Health.aspx>.
- “Indigenous Peoples at the United Nations”: www.un.org/esa/socdev/unpfii/en/session_fifth.html.
- UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/IndexSRRacism.aspx.
- UN Special Rapporteur in the field of cultural rights. www.ohchr.org/EN/Issues/CulturalRights/Pages/SRCulturalRightsIndex.aspx.
- UN Special Rapporteur on the rights of indigenous peoples. www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/SRIPeoplesIndex.aspx

8. WHAT ARE KEY TERMS RELATED TO MINORITY HEALTH AND HUMAN RIGHTS?

C

Civil rights

Rights individuals have in their role as citizens in relation to the state.

Collective rights

Rights associated with a community or people.

D

Direct discrimination

Any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life (ICERD).

F

Forcible assimilation

Policies which seek to forcibly incorporate a minority group into the majority population by erasing any distinctiveness in culture, religion, language, or practices.

G

Gender equity

Equality in social roles and opportunities available to women and men.

H

Health equity

Concern with reducing unequal opportunities for health associated with membership in a less privileged social group, such as an ethnic minority.

Health inequality

Systematic and potentially remediable differences in one or more aspects of health across populations or population groups defined socially, economically, demographically, or geographically.

I

Indigenous people

People descended from populations which inhabited the country at the time of conquest or colonization, or the establishment of present state boundaries, and who retain some or all of their social, economic, and political institutions (ILO). This term is somewhat problematic in the African context, where many countries define it exclusively against European colonialism and in reference to the majority Bantu population, rather than just for Khoesan populations like the San.

Indirect discrimination

An apparently neutral practice or criterion, which nonetheless places a group at social disadvantage based on group characteristics.

M**Minority**

Groups with unequal power compared with the dominant majority and which may need protection from that majority (Minority Rights Group International). Minorities are defined by number (smaller than the majority population), non-dominance, and differences in ethnicity, culture, religion, or language.

“[A] group numerically inferior to the rest of the population of a state, in a non-dominant position, where members-being national of the state-possess ethnic, religious, linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, tradition, religion or language.”⁷³

Minority rights

A rights-based approach stressing the importance of cultural preservation as a means of improving the condition of minority groups. This embodies two separate concepts: first, normal individual rights as applied to members of racial, ethnic, class, religious, linguistic, or sexual minorities, and second, collective rights accorded to minority groups.

S**Self-identification**

Determination of belonging to a minority group made by the individuals themselves.

Social determinants of health

The broad range of factors that contribute to a person’s health including nutrition, housing, education, availability of social services, income, etc.

Social exclusion

The prevention of people from participating fully in economic, social, and civil life and/or when their access to income and other resources (personal, family, social, and cultural) is so inadequate as to exclude them from enjoying a standard of living and quality of life regarded acceptable by the society in which they live.

Social integration

Policies which seek to integrate a minority without coercion into the majority society, while ensuring the protection of individual rights.

⁷³ Capotorti F, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, U.N. Doc E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979): 96.